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Bureau of Land Management

Multiple use of the public land

Prepared for: Rangeland Information Workshop
June 28-29, 1990
Casper, Wyoming

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BUREAU OF LAND MANAGEMENT
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Dear Participant,

This notebook and handouts were compiled by the Wyoming Bureau of Land Management specifically for the Rangeland Information Workshop, June 28 and 29, 1990. It includes information from existing government documents, copies of current publications as well as new material written especially for this notebook on subjects of current interest and concern based upon commonly asked questions by producers.

This is a draft document for use during the workshop. The participants, at the end of the session, will be asked to provide input as to the value of the notebook. The BLM invites industry's suggestions on the content and will consider preparing a final notebook later this year.

Sincerely,

Ray Brubaker

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BLM History

Public Domain

The Bureau of Land Management (BLM) today administers what remains of the nation's once vast land holdings—the public domain. Of the 1.8 billion acres of public land acquired by the United States, two-thirds went to individuals, corporations, and the States. Of that remaining, much was set aside for national forests, wildlife refuges, national parks and monuments, and other public purposes, leaving BLM to manage some 270 million acres, as well as 570 million acres of mineral estate. In several states , lands managed by BLM are often scattered and take on checkerboard, jigsaw, and patchwork patterns.

In the early years lands were generously provided to settlers, corporations, and the States. But as the public domain diminished, the government chose to set aside timber, mineral, and grazing lands and regulate their development as a means of preserving future opportunity.

Numerous laws and acts were passed by Congress, which affect public land including the Mineral Leasing Law of 1920, Carey Land Act of 1894, Reclamation Law of 1902, Forest Reserve Law of 1891 and the Taylor Grazing Act to name a few.

After World War I, the public domain had little good agricultural land remaining. Much of the land was located in the eleven westernmost States, and most of it was described by the General Land Office as arid, broken, mountainous, or grazing in character.

It would be wrong to call this remaining acreage, as so many have, the land no one wanted. Many western ranchers still depended on the remaining public domain to support their herds.

Taylor Grazing Act

The Taylor Grazing Act sought to stop injury to the public grazing lands (excluding Alaska) by preventing overgrazing and soil deterioration; to provide for their orderly use, improvement, and development; (and) to stabilize the livestock industry dependent upon the public range through lease of the public domain to stockraisers. Section 3 of the law provided for issuance of grazing permits on grazing district lands with a term not to exceed ten years. Public lands outside grazing districts could, under Section 15, be leased to ranchers with contiguous property.

The public lands within grazing districts were withdrawn from nonmineral entry, but land could be classified as valuable for agricultural development or other uses under Section 7 and could, at the Secretary's discretion, be opened to nonmineral entry. Private lands within the grazing reserves could be exchanged for outside public lands.

Creating Grazing Districts

Ranchers recommended the establishment of 50 grazing districts covering 142 million acres, 62 million more than authorized under the Taylor Grazing Act. Congress consented to this recommendation in

1936. Eventually, the acreage limitation was entirely eliminated.

The Division of Grazing was created by the Secretary of the Interior. Harold Ickes was named to administer the grazing districts. The Grazing Service problems came from its effort to raise grazing fees. The initial fee of 5 cents per animal unit month (AUM) had been reasonable in the mid-1930's when poor economic conditions prevailed, but prosperity had returned to the livestock industry by the eve of World War II. In 1941, a Grazing Service study showed that the 5-cent fee was considerably below that charged for private and State lands and one-sixth that charged by the national forests. The Grazing Service recommended tripling its existing fee.

Ranchers using grazing district lands opposed the proposal. Resistance was particularly strong in Nevada, where ranchers had just lost a suit before the U.S. Supreme Court demanding that the Grazing Service be restrained from interfering with their free use of public range. Faced with this opposition, Secretary of the Interior Harold Ickes backed off the proposed fee increase.

The Bureau of Land Management

The Bureau of Land Management came into being when the General Land Office and Grazing Service ceased to exist as a direct result of the Reorganization Plan No. 3 Act of 1946. To head the new agency, a Director was to be appointed by the Secretary of the Interior. Unlike predecessors in the GLO and Grazing Service, who were presidential appointees, the new agency chief was to be selected under the classified civil service system. Also to be appointed were an Associate Director and "so many Assistant Directors...as may be necessary."

The Reorganization Plan, however, did not provide a mandate for the newly formed agency. BLM was simply placed under the Secretary of the Interior and "the functions of the General Land Office and Grazing Service...considered to form a new agency." The Bureau, therefore, had to continue administering the public lands using the outmoded and often conflicting mandates of the 3,500 laws passed during the previous 150 years. The major statute directing BLM activities was the Taylor Grazing Act, which provided for the administration of grazing "pending final disposition" of the public lands. Another problem facing the Bureau was the integration of the General Land Office and Grazing Service into one organization. BLM resulted from a merging of the oldest Federal agency with one of the youngest—two agencies with different organizational structures and philosophies. GLO was centralized, with the most authority placed with the commissioner; the Grazing Service was decentralized. The General Land Office handled a variety of resources, while the Grazing Service dealt primarily with range management. Creating a new organization out of these two agencies posed a challenge.

Multiple Use

BLM Director Marion Clawson in 1952—identified BLM's mission. Key to this was the concept of multiple use management. "Multiple use," according to Clawson, "is (a) system under which the same area of land is used simultaneously for two or more purposes, often by two or more different persons or groups." These uses

could be complementary, or, as was most often the case, competitive with one another. Clawson thought multiple use management desirable and wanted it practiced on BLM-administered lands.

Multiple use management offered BLM managers considerable opportunity and challenge. Land use decisions had to take into account not only the benefits and impacts of an activity but also their interactions with other activities. Managers needed to know the resource values of the public lands under their jurisdiction. This required inventory and classification actions, so that the best and highest priority uses of public lands, along with the most advantageous land-tenure arrangements to promote them, could be determined.

Clawson emphasized land inventory and classification. The Taylor Grazing Act directed that lands in grazing districts be classified before disposal, and President Franklin D. Roosevelt's general withdrawal orders of 1934 and 1935 directed the same be done (except in Alaska) for public lands outside the grazing districts. The Grazing Service and General Land Office had inaugurated studies, but little of the public domain was inventoried and classified. The classification work generally responded to individual applications for land disposal, but case-by-case classifications did not give BLM managers an overall picture of an area's character and economics. This required more general classifications of larger areas.

A fledgling multiple use philosophy with the Bureau was legally endorsed for the public lands in the Classification and Multiple Use Act (CMU Act) of 1964. BLM was reorganized to reflect new programs and authorities under this mandate; concerns for wildlife, recreation, soil, and water resources were integrated into traditional programs (range, forestry, lands, and minerals) through a land use planning process.

In 1963 Secretary Udall designated Resource Conservation Areas on BLM lands in each of the western States to demonstrate how active management of the public lands would provide benefits to all resources, including soil and water, forage (both wildlife and livestock), and forests. Director Stoddard said "we hope to acquaint every American with the thought that he is part owner of a great national treasure—which is becoming ever more valuable as our population grows." Secretary Udall urged conservationists to visit these areas and follow their progress through on-the-ground inspections and discussions at club meetings.

This explosion of activity in the 1960s lead to a new land ethic, but it was not achieved without cost: controversies erupted and debates intensified as BLM advanced its multiple use mission. Reflecting America's growing concern for its public lands (and the Bureau's new mandates), BLM's workforce grew from about 2,600 in 1960 to 4,300 in 1970, with its budget growing from $36 million to $118 million. Revenues also grew—to over a billion dollars in 1969.

By the end of the 1960s, public land management was becoming a hotly debated topic. The public became a permanent player in the game and demonstrated that it was no longer willing to entrust the job entirely to land managers, to House committees, or to anyone else to the exclusion of others. The management of public lands moved from legislation to litigation.

Increased public involvement showed BLM that land management was becoming every bit as much a social and political activity as a scientific endeavor. Advisory boards were increasingly used at national, State, and local levels. Public meetings and hearings became everyday components of field operations.

Congress was asked to settle disputes among land users by specifying land uses but, more often than not, left the decisions to land managing agencies (or the courts). Environmental litigation seemed to become a way of life for BLM in the 1970s, as various interest groups filed suit under the new acts.

In the 1970 's two important acts were passed by Congress—the Federal Land Policy and Management Act and the National Environmental Protection Act. FLPMA granted BLM new authorities and responsibilities, amended or repealed previous legislation, prescribed specific management techniques, and established BLM's California Desert Conservation Area. With NEPA, Congress addressed specific environmental concerns.

Legislation was also passed to protect air quality and endangered species, and was amended to strengthen protection of cultural resources and water quality. The Wild and Free Roaming Horse and Burro Act of 1971 radically realigned BLM's management of these animals, requiring protection and enforcement programs.

What Does FLPMA Do?

FLPMA established BLM's Working Capital Fund. It also allowed BLM to accept contributions and donations for specific activities on BLM lands.

FLPMA gave BLM authority for acquisition under its land use plans but limited the government's power of eminent domain. BLM was allowed to use Land and Water Conservation funds to acquire public recreation lands.

FLPMA authorized BLM to identify areas of critical environmental concern (ACECs) through its planning process. ACECs were defined as areas "within the public lands where special management attention is required" to protect "historic, cultural or scenic areas, fish and wildlife resources, or other natural systems or processes..."

FLPMA authorized a study of grazing fees but prohibited any increase in the fee in 1977. To assure long-term stability and use of BLM lands by the livestock industry, it also authorized 10-year grazing permits and required 2-year notices of cancellation. BLM grazing advisory boards were directed to advise BLM on the development of Allotment Management Plans and allocation of range improvement funds.

FLPMA directed BLM to review the public lands for wilderness potential as set forth in the 1964 Wilderness Act. The act directed BLM to conduct early wilderness reviews on all lands designed as primitive or natural areas before November 1, 1975.

FLPMA amended the Wild and Free Roaming Horse and Burro Act to authorize the use of helicopters in horse and burro roundups.

FLPMA modified the formulas for distribution of funds collected under the Mineral Leasing Act of 1920 and the Geothermal Steam Act of 1970.

FLPMA established the California Desert Conservation Area and directed BLM to develop a land allocation plan for the area by 1980. FLPMA also repealed the Homestead Act (except in Alaska where it was given a 10-year life) and other settlement acts. The act also decided how future Directors of BLM would be selected—by the President, with approval from the Senate.

Resource Management Plans

FLPMA required BLM to develop a comprehensive Land Use Planning System.

In 1977, BLM began developing Resource Management Plans (RMPs), which were to be prepared in the field in conjunction with Environmental Impact Statements. IN 1979, BLM phased in a transition from Management Framework Plans (MFPs) to RMPs, whereby scheduled updates of MFPs would be replaced by RMPs. By 1988, 61 RMPs were completed bureauwide—about half of the RMPs that will eventually be prepared. The Bureau has scheduled replacement of all its MFPs by 1994.

The basic steps in completing an Resource Management Plan are:

1. Development public participation plan.
2. Identify issues.
3. Development planning criteria (set standards for data collection and formulation of management alternatives).
4. Gather information, inventory resources.
5. Analyze management situation.
6. Formulate management alternatives.
7. Estimate effects of alternatives.
8. Select preferred alternative.
9. Publish draft RMP/EIS (90-day comment period).
10. Publish final RMP/EIS (30-day protest period).
11. Monitor and evaluate overall plan.
12. Prepare activity plans.

Public meetings conducted by the employees developing the plan are required during issue identification, development of planning criteria, and publication of both the draft and final RMP/EIS. Once the RMP is approved, BLM prepared more specific activity plans for specific programs (e.g., Allotment Management Plans, Habitat Management Plans, or others): the activities proposed in these plans must conform to the RMP. For actions that don't, the District Manager prepares a plan amendment, again with participation from the public.

NEPA required Federal agencies to consider the potential impacts from proposed major actions and created the Council of Environmental Quality (CEQ) to implement its provisions. According to Ron Hofman, then acting Chief, of the Division of Planning and Environmental Coordination, the idea of environmental impacts statements (EISs) was added to the act at the last minute to provide an "action-forcing mechanism" for agencies to (1) discuss their actions with the public and with State and local governments, and (2) to formulate management alternatives after extensive on-the-ground evaluation.

Management by Litigation

In 1973—The Natural Resource Defense Council (NRDC) filed suite against BLM for not complying with NEPA. The NRDC asserted that the act of issuing grazing

permits and licenses locally constituted significant Federal actions and therefore required locally prepared EISs to determine potential impacts. The courts agreed in October 1973 and directed the Interior Department and NRDC to reach agreement on what level EISs would be produced in the field.

Interior Department solicitors reached an agreement with NRDC whereby BLM would prepare 212 statements in the field, covering 150 million acres of public lands over the following 15 years (by 1988)

Along with its environmental impact statements, BLM prepared Allotment Management Plans (AMPs) in cooperation with individual ranchers. AMPs proposed plans of action for specific areas and specified seasons of use, livestock numbers, and range improvements. The EISs and AMPs considered the needs of wildlife, wild horses and burros, plus the impacts of other land uses (e.g., ORV and mining uses), furthering the Bureau's examination of resources in a multiple-use context. Management alternatives in the statements consisted of anything from implementing AMPs (which often required overall reductions in livestock numbers or grazing deferments), to maintaining status quo, to eliminating grazing. Most EISs, however, adopted the AMP alternatives proposed.

In the late 1970s, this arrangement broke down. NRDC criticized BLM's policy of preparing AMPs at the same time EISs were written, arguing that current forage resources needed to be inventoried beforehand. Many livestock operators complained that AMPs were being developed without considering the needs of operators to effectively manage livestock. In 1978, the Public Rangeland Improvement Act specified that AMPs be developed "in careful and considered consultation, cooperation and coordination" with the lessees, permittees, and landowners involved, along with district and State grazing advisory boards. BLM began to collect extensive forage inventories before writing grazing EISs, with AMPs and other activity plans being written after the overall plan was adopted.

In 1978, BLM successfully negotiated with the National Resources Defense Council (NRDC) to reduce the numbers of grazing environmental impact statements (EISs) it would prepare in the field from 212 to 158. BLM wanted to consolidate smaller planning areas and combine its grazing EISs with Resource Management Plans that were to be prepared for BLM Resource Areas. No grazing lands were omitted from the EIS requirement; NRDC and the Courts agreed with the change. With further consolidations agreed to by NRDC. BLM scheduled the last of 142 grazing statements for completion in 1989.

In 1980, BLM continued to rely on forage inventory data to prepare EISs and set stocking rates. Many permittees—and range scientists—took issue with this method of deciding grazing issues because BLM was using data collected in only one season of a given year. Livestock organizations and academia challenged the value of data, much of which had been collected during a drought year and did not reflect normal or long-range forage growth.

The Society for Range Management, the National Academy of Sciences, and other groups examined these questions and recommended that BLM implement long-

term studies to better reflect range forage production, condition, and trend. Under Director Bob Burford, BLM moved away from relying solely on inventory data to monitoring range conditions on public grazing lands. BLM's monitoring activities examined:

- Actual Use (number of livestock on allotment)
- Utilization (amount and type of forage used)
- Climate (monthly precipitation, temperatures, etc.)
- Trend (improving, declining, or static)

BLM's range program also began to focus allotments where management would bring the best results. Grazing allotments were placed in one of three categories:

"M" (Maintain) - Range is producing at or near potential; present management is satisfactory.

"I" (Improve) - Resource conflicts need to be addressed; forage resources are responsive to management.

"C" (Custodial) - Range is in poor condition and not responsive to management.

BLM developed a more effective cost/benefit analysis for range improvements and began to target them on "I" allotments where they would do the most good. Working closely with allottees and other land users during the process paid significant dividends to the Bureau. Many ranchers and conservation groups came to support the effort.

Automation Collection

The nation's change to an information society, together with increasing demands on public lands and resources, provided BLM a new challenge in the 1980s. The Bureau's rapid growth over the last four decades included massive increases in the information it maintained. Just managing this data and creating meaningful summaries—for both land managers and the public—proved to be difficult. In the 1980s, BLM recognized its data was a significant national asset and began to develop an automated Land Information System. The Bureau began to modernize its ADP equipment standardized its data, and integrate its information systems to more efficiently process its workload and to make its information on Federal land and Mineral resources more readily available to the public.

To more fully integrate renewable resource programs and make field operations more efficient, BLM began to collect and share data among its programs. The ecological site inventory (ESI) was developed to measure vegetation on the public lands. This and other joint ventures reduced the need for programs to conduct overlapping resource inventories. Data on vegetation came to be used as a measure of soil erosion, deer browse, livestock forage, watershed condition, or even dune stability in off-road vehicle areas. ESI data is then used to develop land use plans, with more specific data then being collected by individual programs.

Riparian Management

Another initiative crossing program lines during the 1980s was the Bureau's development of a policy for managing riparian areas. BLM had managed riparian areas since the 1960s, but the most of its emphasis related to the wildlife program. During meetings sponsored by the Congressional Research Service in 1984, riparian management surfaced as a significant issue in BLM's range program and was prominent during consideration of the Omnibus Range Bill by Congress. In May 1985, BLM's National Public Lands Advisory Council recommended that the Bureau develop a comprehensive riparian area management program.

Line Management

BLM is a "line management" organization with four basic organization levels. The top level is the Washington Office where the BLM Director resides. This is a policy making level where the Bureau interfaces with national politics and where it competes for a share of the national budget.

The second level is the State Office. The State Office in Cheyenne is the office of the State Director, Deputy State Directors and support staff. It provides policy, administrative, and other support for the Districts. It acts as a state level contact with the Washington Office, State of Wyoming Government, and other state and regional offices.

District Offices are the next level. Wyoming BLM has District Offices in Worland, Rawlins, Rock Springs, and Casper. Each District has a District Manager and four or more Divisions headed by Assistant District Managers. They provide oversight, guidance, and support to the Resource Areas within specified goals previously developed in conjunction with the State Office. This includes a variety of line management functions such as the traditional supervisory task of managing personnel. This includes the following functions within the geographic boundaries of the District:

1. Long-term planning.
2. Resource program coordination.
3. Budget allocation (priority setting).
4. Policy and technical program guidance.
5. Quality control and review.
6. Functional program and management evaluation.

Resource Area Offices make up the final level. Each District within Wyoming includes two to three Resource Areas. Resource Areas conduct the on-the-ground management of BLM resource management programs. They have two major roles. Their staffs are responsible for all local resource management activities which take place within the geographic boundaries of the Resource Area. They function as the Bureau's primary field contact for public and resource use information. Resource Areas are line management entities. This is in contrast to the staff District Divisions, which are subordinate staff components of an office and advise or assist line managers. Resource Area Managers are decision making officials with specific line management responsibilities and authorities. This requires decentralization of authority which can respond effectively to public service and resource needs. This does not mean that Resource Areas are autonomous offices that operate independently of the District. Rather, they are offices that derive their authority and receive their guidance and direction from the District. The District Manager assures that all delegated responsibilities are effectively carried out by Area Managers. Area Managers exercise delegated decision authorities and manage and direct all work tasks leading to a decision.

Generally, authority to make decisions originates with passage of law by Congress and the President. Authority to take action based upon a law is delegated from the Secretary to the Director of BLM unless the law specifically includes the Director. The Director then delegates to the State Directors who delegate to District Managers and Deputy State Directors. District Managers delegate to Area Managers and to Assistant District Managers.

This is why a grazing user may deal with a staff member in an office but receive a letter or decision on the topic signed by a District Manager or Area Manager. This does not mean that the staff member was not involved in preparing the letter or decision. Certainly Managers rely upon on their staffs to make recommendations.

How far down the organization decision making authority can go depends upon language in the specific law, or more often, upon how the delegation reads from a higher authority. For example, the regulations state that only the Director may make "special grazing rules" and that permanent range closures may not be delegated below the State Director level.

It would be simpler if every individual within BLM could execute decisions. However, with a large organization such as BLM, it would be difficult to achieve any type of uniformity with every employee making individual decisions. It would also be difficult to comply with the Federal Land Policy Act which requires BLM to consider multiple use and multiple resources when making land management decisions. For your information, we have included copies of the "Delegation of Authority" which pertain to grazing actions within Wyoming from Wyoming BLM Manual Supplement 1203. The action being delegated is listed on the left and the Officer to whom authority is delegated is listed across the top.

STAFFING – BLM EMPLOYEES

Members of the public frequently are concerned about the high turnover rate of Bureau employees who deal with the public. It is reasonable to expect BLM employees to remain in place long enough to master their jobs and provide optimum public service. In order to be as responsive as possible to the public and achieve cost effectiveness in employee assignments, BLM has determined that individuals selected for permanent positions in the Bureau are expected to remain at their same geographic location for a minimum of three years.

On the other hand, employees and managers are encouraged to apply some general rules of thumb in making career decisions. It takes an average of 6 months to 1 year for most employees to reach operating efficiency in a job. After being in a position for 3 to 5 years, some employees show a gradual decline in incentive. Multi-location experience not only enhances an employee's career opportunities through the development of diversified knowledges of Bureau operations and programs, but can also promote an atmosphere which is responsive to the public and considers all perspectives on natural resource management in policy formulation.

Pay for federal employees is based on the principle of equal pay for substantially

equal work. Positions are evaluated and assigned a grade for pay purposes that is based on a variety of factors, i.e., the knowledges, skills and abilities required to do the job, the complexity of assignments, the level of responsibility required, physical abilities required to do the job, supervision exercised, if any, etc.

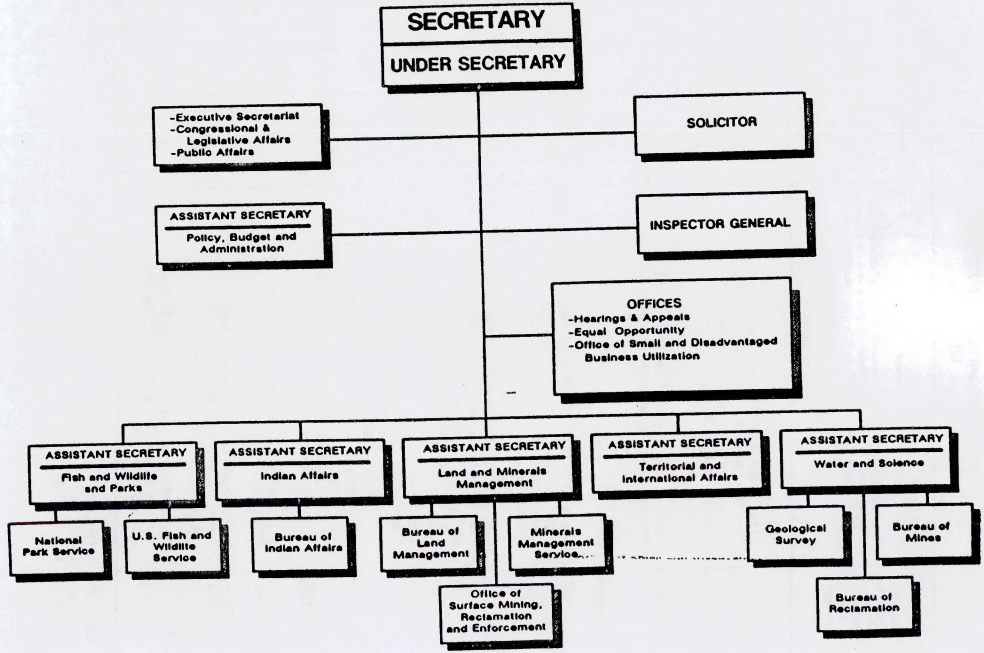
Within each grade level is a range of ten steps. In any given job, the employee advances from step 1 to 10 according to length of service and satisfactory performance. In order to advance from one grade to a higher grade, an employee must compete for a position that has been evaluated at a higher grade because of increased responsibilities, more complex assignments, and/or greater knowledges or skills required.

This process of evaluation and pay is the same for all positions in the Bureau, regardless of which state one works in. As a general rule, positions are higher graded in the State Office than the District Office and positions in the Washington Office higher than the State Office, because of broader and more complex responsibilities at each organizational level.

Subject-Function Classification Code Reference	Activity (Do not exercise or redelegate any authority without full understanding of the background of the authority. Refer to source cited in the Subject-Function Classification Code Reference Column.) X = Delegated from source cited. O = Redelegated within Wyoming. * = May not be redelegated.	Authority Delegated To										
		Other	State Office							District		
		Author	SO-ASD	SO-MR	SO-LR	SO-Dir	SO-Adm	Other	DM-ADM	AM	Other
4110.1&2	Determine qualifications of applicants for grazing use, and requirements of land and water base properties.		X						O	O	
4110.2	Allocate grazing preference, increases, and decreases.		X						O	O	
4110.3	Approve transfers and relinquishments of grazing preference.		X						O	O	
4110.5	Adjudicate conflicting applications.		X						O	O	
4120.1&2	Designate allotments for livestock grazing; specify numbers and kinds of livestock, and periods of use; incorporate other terms and conditions as appropriate in grazing permits and leases.		X						O	O	
4120.2-3	Implement grazing management through allotment management plans and grazing systems.		X						O	O	
4120.3	Close public lands to grazing when needed.										
	- Permanent closure.		X*								
	- Temporary closure.		X						O	O	
4120.4	Special Rules.	X									
4120.6	Implement range improvements through permits and cooperative agreements, and determine their value.		X						O	O	
4120.6 4120.7	Accept contributions for range improvements.		X						O	O	

Subject-Function Classification Code Reference	Activity (Do not exercise or redelegate any authority without full understanding of the background of the authority. Refer to source cited in the Subject-Function Classification Code Reference Column.) X = Delegated from source cited. O = Redelegated within Wyoming. * = May not be redelegated.	Authority Delegated To: Other Authority	State Office: SDD-ASD	State Office: SDD-DMR	State Office: SDD-LAR	State Office: DSD-Appr	State Office: DSD-Adm	State Office: Other	District: DM-ADM	District: AM	District: Other
4130	Issue grazing permits and leases, free-use permits, crossing permits, exchange-of-use, authorizations, nonrenewable permits, and special grazing permits.		X						O	O	
4130.5	Collect and deposit fees for grazing use, and approve refunds.										
	-Collect		X						O	O	
	-Deposit		X						O		
	-Approve refunds		X						O		
4140,4170	Issue notices of violations and other actions within Grazing Districts (other than, less than, arrest authority).		X						O	O	
4150	Take corrective and disciplinary actions as necessary on violations; initiating trespass and impoundment actions; accepting settlements.		X						O	O	
4150.3	Settlement Authority to terminate collections or accept conditional offers.										
	-$600 or less.		X								
	-$600 to $2,500 with concurrence of the solicitor.		X								
	-$2,500 to $20,000 with concurrence of the solicitor.	X									
43 CFR 4150.5-2	Issue order to impound unauthorized livestock.		X						O*		
43 CFR 4150.5-5	Issue order to sell unauthorized livestock (after consultation with the Director and Solicitor).		X*								
4160	Issue proposed and final decisions on matters of grazing administration and management.		X						O	O	

GENERAL ORGANIZATION – U.S. DEPARTMENT OF THE INTERIOR



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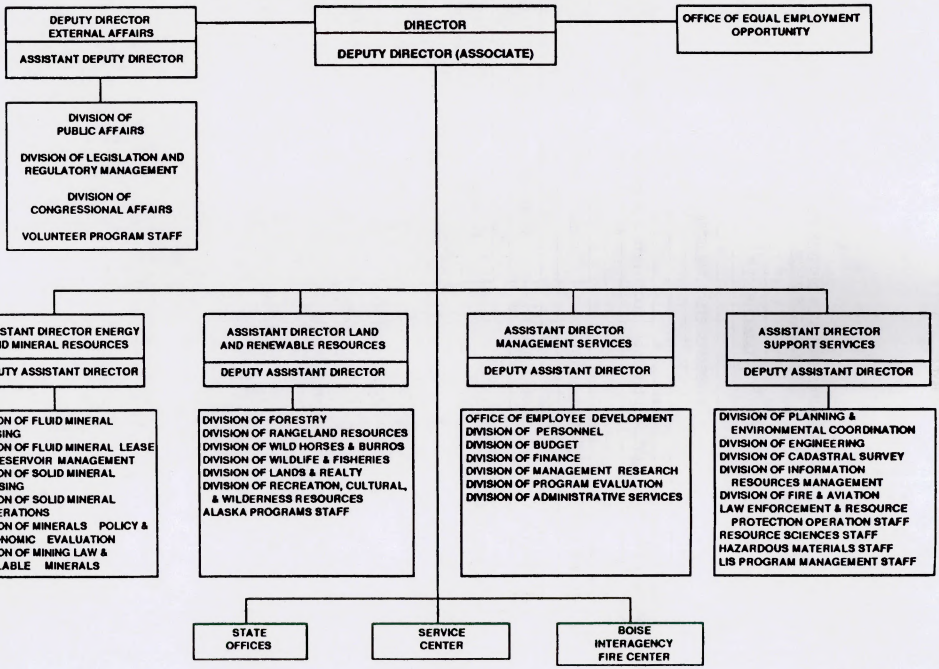
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ASSISTANT DEPUTY DIRECTOR
DIRECTOR
DEPUTY DIRECTOR (ASSOCIATE)
OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY
DIVISION OF PUBLIC AFFAIRS
DIVISION OF LEGISLATION AND REGULATORY MANAGEMENT
DIVISION OF CONGRESSIONAL AFFAIRS
VOLUNTEER PROGRAM STAFF
ASSISTANT DIRECTOR ENERGY AND MINERAL RESOURCES
DEPUTY ASSISTANT DIRECTOR
ASSISTANT DIRECTOR LAND AND RENEWABLE RESOURCES
DEPUTY ASSISTANT DIRECTOR
ASSISTANT DIRECTOR MANAGEMENT SERVICES
DEPUTY ASSISTANT DIRECTOR
ASSISTANT DIRECTOR SUPPORT SERVICES
DEPUTY ASSISTANT DIRECTOR
DIVISION OF FLUID MINERAL LEASING
DIVISION OF FLUID MINERAL LEASE & RESERVOIR MANAGEMENT
DIVISION OF SOLID MINERAL LEASING
DIVISION OF SOLID MINERAL OPERATIONS
DIVISION OF MINERALS POLICY & ECONOMIC EVALUATION
DIVISION OF MINING LAW & SALABLE MINERALS
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DIVISION OF WILD HORSES & BURROS
DIVISION OF WILDLIFE & FISHERIES
DIVISION OF LANDS & REALTY
DIVISION OF RECREATION, CULTURAL, & WILDERNESS RESOURCES
ALASKA PROGRAMS STAFF
OFFICE OF EMPLOYEE DEVELOPMENT
DIVISION OF PERSONNEL
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DIVISION OF FINANCE
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DIVISION OF PROGRAM EVALUATION
DIVISION OF ADMINISTRATIVE SERVICES
DIVISION OF PLANNING & ENVIRONMENTAL COORDINATION
DIVISION OF ENGINEERING
DIVISION OF CADASTRAL SURVEY
DIVISION OF INFORMATION RESOURCES MANAGEMENT
DIVISION OF FIRE & AVIATION
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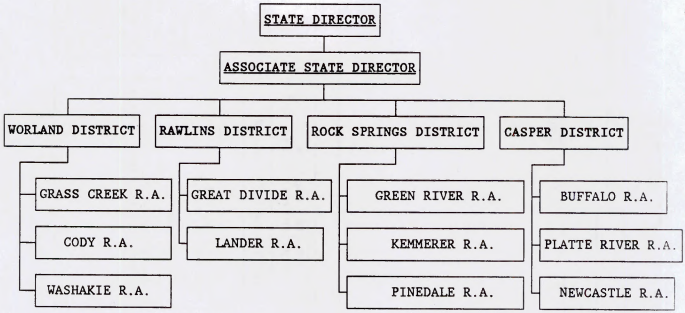
LIS PROGRAM MANAGEMENT STAFF
STATE OFFICES
SERVICE CENTER
BOISE INTERAGENCY FIRE CENTER

6/18/90

ORGANIZATIONAL STRUCTURE OF
WYOMING DISTRICTS



Budget

The BLM grazing program receives funding primarily in two ways. The first is money allocated by Congress in its annual budget for Grazing Management. The Bureau currently uses a subactivity number 4320 to designate these allocations. The second source is money for the Range Improvement program from grazing receipts. The Bureau uses subactivity number 8100 and 8200 to designate this source, but the funds must be appropriated by Congress.

Allocated 4320 funding comes via the Federal Budget as approved by Congress and the President. This process takes approximately three years to complete and is a matter of great congressional debate and news media reporting. Since the cycle requires three years, the BLM and Congress may be involved with as many as four annual budgets at any given time. News articles sometimes are unclear as to which budget year they are reporting about. The various years are designated by fiscal year (FY).

As an example, the current year budget (FY90) went through the following abbreviated steps:

Feb, 1988 — Wyoming BLM submitted the FY 90 Program Year Budget Plan. This was our proposal for funding of all allocated programs for FY90 including Grazing Management, 4320. Wyoming's plan was combined by the Bureau into a Bureau Grazing Management request and submitted to the Department of Interior.

May, 1988 — The Department of Interior Request, including the BLM Grazing Management request, was submitted to the Office of Management and Budget (OMB) who is responsible for preparing the President's Budget.

Jan, 1989 — OMB completed the President's "Budget of the United States" and submitted it to both houses of Congress. Leading to this step, OMB took liberties with Department of Interior requests but the process permitted some formal appeal and negotiation between OMB the Department of Interior and BLM.

Jan-Jul, 1989 — Committees held budget hearings in each house. No reconciliation was reached between the two Houses by start of the fiscal year so a temporary continuing resolution was passed to keep the Federal Government operating.

Sept, 1989 — Wyoming completed a Preliminary Annual Work Plan, essentially a preliminary budget for FY90. It was based upon spending levels as allocated by the BLM Director for each program including Grazing Management. Allocations were based upon what it appeared the Bureau would receive in each program (pending final passage by Congress) and divided among the States based upon past accomplishments and any new initiatives. This preliminary budget proposed where dollars would be spent within each program and identified what work elements would be accomplished. Individual allocations were provided to each District and

State Office Division based upon anticipated workloads and they prepared their own Preliminary Annual Work Plan within guidance received from above.

Oct 1, 1989 — Beginning of FY90.

Dec, 1989 — President signed the final appropriation bill for BLM giving BLM a final budget.

Dec, 1989 — The Bureau sent out the approved Annual Work Plan for each State indicating any adjustments from the Preliminary Annual Plan. The BLM State Office did the same for individual Wyoming Districts and State Office Divisions. In this way each Office received its own budget for Grazing Management as well as for the other allocated subactivities.

This process allows each level of office or authority to make requests for funding from the next higher office or authority. It also enables each higher office or authority to provide spending directives to the next lower office or authority. For example, during the Program Year Budget Plan and the Preliminary Annual Work Plan steps, the Resource Area Offices made requests to the District and the District to the State Office and on up the line. Conversely, when Congress allocates money, they often specify what the money is to be used for or approve money to be spent for specific requests made by the Department of Interior. The BLM Washington Office also provides spending direction to the States as the States do the Districts and on down to the Resource Area level.

The approved Annual Work Plan is a contract between each lower office and the next higher Office. It says that in exchange for "X" dollars, I will do certain work, e.g., units of accomplishment or projects. Accounting occurs during the year; such as at mid-year review, at the end of the fiscal year, and certainly when new requests for money are being prepared.

Wyoming BLM may not shift money between subactivities. For example, the State may not transfer money between Grazing Management, Forest Management, Wild Horse and Burro Management, or Oil and Gas Management without special justification and approval from the BLM Director.

Funding from Grazing Receipts

Wyoming receives approximately 50 percent of all grazing receipt for the Range Improvement program. These funds are distributed to the Districts where the receipts are collected on an annual basis. An estimate is received at the beginning of the fiscal year. That estimate is subsequently adjusted to include last year funds not obligated during the previous year. Additional adjustments are made during the year when previous obligations come in higher or lower as completed contracts. Dollars received by a District for a given year may not match 50 percent of receipts received by that District during the previous year, but are to match over a 5 year average period.

Every year each District makes a list of proposed Range Improvement projects and ranks them primarily on a benefit to cost ratio. The District Grazing Advisory Board then ranks them using their own criteria. The District Manager then makes a final ranking. Projects are then funded in priority order until all funding expires.

Range Improvement Projects

RANGE IMPROVEMENT FUNDS (8100/ 8200)

This appropriation consists of funds derived from one-half of the grazing fee receipts (8100) and from receipts collected from leasing on Bankhead-Jones Act (L.U.) lands (8200) to be used for rangeland improvements. Range improvements include "any subactivity or program on or relating to rangelands which is designed to improve production of forage, change vegetative composition, control patterns of use, provide water, stabilize soil and water conditions, and provide habitat for livestock and wildlife." The term includes, but is not limited to, structures, land treatment projects, and the use of mechanical means to accomplish desired results.

Bureau guidance on distribution and use of range improvement funds is quite specific:

A. Distribution

Range improvement funds shall annually be distributed to Districts in proportion to the amount of grazing fees collected by each District (8100 subactivity). The 8200 funds are returned to the District of origin. State Directors have limited discretion in redistributing funds annually between Districts, subject to a requirement that the amount received by a District over a 5-year period must equal that District's full entitlement. State Directors must consult with affected District Grazing Advisory Boards (DGABs) concerning the nature of, and basis for, proposed redistributions before making a decision to redistribute them.

B. Use

The Federal Land Policy and Management Act specifically directs that range improvement funds be expended for on-the-ground rehabilitation, protection, and improvement of rangelands. It is Bureau policy that range improvement funds not normally be used for project planning, resource clearances, etc. A list of allowed and nonallowed uses of range improvement funds follows at the end of this section. Project planning, reconnaissance, environmental assessment, and resource clearance costs associated with range improvement project installation must be funded by the principal benefiting subactivity(ies) (e.g., grazing administration; soil, water, and air; or wildlife) or by contributions.

Current Bureau policy guidance requires that range improvement funds not be used for maintenance. Where the Bureau has that responsibility, maintenance costs must be funded by the benefiting program/subactivity.

A checklist for project planning is also at the end of this section. This checklist shows the various steps, timeframes, clearances, and coordination that are necessary to insure that a project can be funded and constructed.

Use of Advisory Board Funds

Section 10 of the Taylor Grazing Act directs that 12 1/2 percent of the Section 3 grazing fee receipts and 50 percent of the Section 15 grazing receipts be returned to the States and distributed to the counties as prescribed by the State legislature. In Wyoming, these monies are distributed to the county treasurers for use by the Wyoming State Grazing Board. Funds contributed to the Bureau by Advisory Boards are handled in the same manner as any other contributions.

RENEWABLE RESOURCE IMPROVEMENT AND TREATMENT GUIDELINES AND PROCEDURES

General Rules for Expending Range Improvement Funds

Kind of Improvement Practice	*Allowable Charge*
Livestock management fence	Yes
Spring development	Yes
Dam/reservoir/diversions	Yes
Pit tank	Yes
Catchment	Yes
Well/storage facilities	Yes
Pipeline	Yes
Cattleguards	Yes
Corral/chutes	No
Dipping vat	No
Trails	Yes
Brush/weed/pest control	Yes
Vegetation manipulation, seeding, planting	Yes
Wild horse/burro gathering	No
Wildlife improvements (rangeland)	Yes
Watershed improvements	Yes
Wild horse/burro facilities	No
Enclosures	No
Research	No

Improvement and Treatment Tasks	*Allowable Charge*
Land use planning	No
Activity planning	No
Project planning:	
Prelim. site investigation, etc.	No
Compliance with LUP	No
User/cooperator consultations	No
Env. and resource clearances	No
Water right filing	No
Easement/ROW acquisition	No
Final project survey, design, pre. of materials list, etc.	Yes
Contract preparation	No
Installation:	
Contract	Yes
BLM force account labor	Yes
BLM equipment	Yes
Material and supplies	Yes
Equipment purchase	Yes
Equipment rental	Yes
Contract supervision & inspection	Yes
Project modification	Yes
Maintenance	No
Reconstruction	Yes
Clerical (general filing and typing)	No
Training	No
Workshops	No
General admin. expense	No

This is a project planning checklist for range improvement projects that is used by each District before a project can be constructed or funded.

PROJECT CHECKLIST

Normal Project Schedule
YEAR 1 - Early Layout & Planning by 9/30
YEAR 2 - Engineering & Design by 8/15
YEAR 3 - Construction by 9/30

Resource Area _____
Subactivity _____
Job Name _____
Job Number (when known) _____

SECTION I - EARLY LAYOUT AND PLANNING — COMPLETE BY SEPTEMBER 30 - 1ST FISCAL YEAR

	Initial		Key Date(s)
1. Project proposed to Area Manager and approved for further planning. Date: _____	_____	A.M.	
2. Prepare project file which includes checklist, JDR, with all appropriate sections complete, including proposed subactivity and a good map of the project.	_____	R.A.	
3. Engineering feasibility study conducted, including preliminary project flagging.	_____	R.A./OPNS.	
4. Request staff assistance for cultural resource clearance.	_____	A.M.	
5. Hydrologic feasibility investigation: well sites, water flow measurement for springs, water quality analysis, etc.			
Requested	_____	R.A.	
Completed	_____	L&RR	
6. Conflict Analysis. If a conflict or possible problem does exist, explain on a separate sheet and attach. Obtain District staff input on those items where Area expertise is lacking.			
Land Status	_____		
Bureau Planning Decisions	_____		
Other Federal, State, or Local Government Considerations	_____		
Mining Claims	_____		
Cooperative Agreements	_____		
Water Rights (New Right, Change in Point of Use, etc.)	_____		
User (i.e., Permittee, Lessee) Consultation	_____		
Forestry/Timber	_____		
Threatened and Endangered Species	_____		
Wildlife (initial WY G&F Consultation)	_____		
Wetlands	_____		
Watershed	_____		
Soils	_____		
Archaeology	_____		
Wilderness	_____		
Visual Resource Management	_____		
Other (List)	_____		
7. Area Manager resolves conflicts, or terminates proposal. Date: _____	_____	A.M.	By Sept. 30 Otherwise Delayed by One Year

SECTION II - ENGINEERING AND DESIGN — COMPLETE BY AUGUST 15 - 2ND FISCAL YEAR

8. Prepare the initial cost estimate.	_____	OPNS.	
9. Complete the benefit/cost analysis.	_____	R.A.	

	Initial		Key Date(s)
10. Prepare cooperative agreement and agree upon contributions.	_____	R.A.	
11. Develop Pesticide Use Proposal (if appropriate).	_____	R.A.	
12. Written notification of the proposal sent to State Game and Fish Department.	_____	R.A.	
13. Request staff assistance for easement acquisition (if appropriate).	_____	R.A.	
14. Cultural Resource/Antiquities Clearance completed.	_____	L&RR	
15. Prepare CX or EA.	_____	R.A.	December 31
16. Area Manager reviews CX or EA and associated documents (i.e., coop. agreement).	_____	A.M.	
17. State Game and Fish consultation and field review completed.	_____	R.A.	
18. Proposed 8100 projects reviewed prior to presentation to Grazing Advisory Board.	_____	D.M.	
19. Present appropriate projects to Grazing Advisory Board.	_____	A.M.	Last Week in March
20. Receive WO approval of Pesticide Proposal (if appropriate).	_____	L&RR	
21. Prepare ROD and submit projects to Operations. Date: _____	_____	R.A./A.M.	*May 1 See note at bottom of page.
22. Engineering survey and flagging completed.	_____	OPNS.	
23. Easement or right-of-way acquired and file with the State Engineer for water appropriation (if appropriate).	_____	OPNS.	
24. Review JDR and Cooperative Agreement. Obtain project number from OPNS.	_____	R.A.	
25. Cooperative Agreements signed (obtain monetary contribution, if appropriate).	_____	R.A.	
26. Job approved for inclusion in AWP. Date: _____	_____	D.M. & A.M.	August 15

SECTION III - CONSTRUCTION	COMPLETE BY SEPTEMBER 30 - 3RD FISCAL YEAR		
27. Review of mitigating measures called for in EA and ROD.	_____	OPNS./A.M.	
28. Plans and specifications for contracting or force account development completed. Materials ordered.	_____	OPNS./ADMIN.	February 28
29. Water filings completed (if appropriate).	_____	OPNS.	
30. Contract reviewed by Area Manager.	_____	A.M.	
31. Contract awarded if funded in the AWP.	_____	OPNS.	June 30
32. Contract administration-COR and project inspector assigned. Inspector _____	_____	OPNS.	
33. Water rights completion filed with State Engineer; number posted on JDR.	_____	OPNS.	
34. Project determined to be operational.	_____	OPNS.	
35. JDR Completion Report (Section IV) sent to ADP and Resource Area notified.	_____	OPNS.	
36. Drawings and specifications filed and job marker placed at key job location. Job file returned to R.A.	_____	OPNS.	
37. URA or RMP updated.	_____	R.A.	
38. Activity case files updated (AMPs, HMPs, grazing and allotment case files, etc.).	_____	R.A.	
39. Checklist completed and job folder properly filed.	_____	R.A.	

* Areas will only submit to Operations projects that are complete and ready for submission on this key date. Projects not ready will be submitted the following year.

Land Use Planning

RESOURCE MANAGMENT PLANS

The BLM has quite a challenge in managing both the Federal land and mineral estate in Wyoming. The basis for establishing the uses of public lands administered by BLM lies in comprehensive resource management plans prepared by the BLM. The Federal Land Policy and Management Act of 1976 requires that BLM prepare and use these plans under principles of multiple use and sustained yield. In Wyoming, the older Management Framework Plans (MFPs) are being replaced by the more comprehensive Resource Management Plans (RMPs).

Further explanations of the process are on the pages titled:

- Summary of BLM Planning Process
- Minimum Time Frames for Public Participation Activities
- Planning Process

An additional factor relating to the grazing management program should be understood. In accordance with BLM policy, grazing decisions/agreements to define grazing management practices for each allotment are to be completed within 5 years of the date of the EIS Record of Decision/Rangeland Program Summary (ROD/RPS).

By 1994, decisions/agreements supported by rangeland monitoring and evaluation results should be completed on all allotments. Monitoring to evaluate progress of management practices will be continued as needed. The following tabulation shows the sequence in which the EISs were filed, EIS name, EIS acreage, date filed, Fiscal Year of the ROD/RPS, and the Fiscal Year in which the agreements/decisions are to be completed.

EIS Name	Public Land Area (000's Acres)	Date EIS Filed	Date ROD/RPS	5 Years
Sandy	1,714	9/28/78	FY 1979	N/A
Seven Lakes	655	3/8/79	FY 1979	N/A
Green Mountain	1,338	10/20/82	FY 1983	FY 1988
Newcastle	353	5/2/83	FY 1984	FY 1989
Salt Wells-Pilot Butte	1,645	9/28/83	FY 1984	FY 1989
Divide	2,101	9/28/83	FY 1984	FY 1989
Platte River	1,418	11/16/84	FY 1985	FY 1990
Buffalo	799	6/7/85	FY 1986	FY 1991
Lander	1,026	10/28/85	FY 1987	FY 1992
Kemmerer	1,633	12/3/85	FY 1986	FY 1991
Washakie	1,141	11/13/87	FY 1988	FY 1993
Pinedale	924	12/4/87	FY 1989	FY 1994
Cody	1,013	9/30/88	Under Protest	Under Protest
Medicine Bow	1,269	10/7/88	Under Protest	Under Protest

SUMMARY OF BLM PLANNING PROCESS

Process Phase	PREPLANNING	NOTICE OF INTENT	1 IDENTIFY ISSUES	2 PLANNING CRITERIA	3 INVENTORY DATA COLLECT	4 MGMT SITUATION ANALYSIS	5 ALTERNATIVE FORMULATION	6 ESTIMATION OF EFFECTS	7 SELECT ALTERNATIVE	8 SELECT THE RMP	9 MONITORING AND EVALUATION
PURPOSE	*To establish a commitment to the project at all levels within BLM. *To scope out the key elements of project mgmt.	*To get started. *To seek public involvement.	*To orient the process on problems/multiple-use conflicts to be addressed in detail. *To focus attention on the critical tradeoffs. *To ask the questions that must be answered	*To provide sideboards/ constraints on issues to be addressed. *To guide development of the RMP. *To define the scope of analysis.	*To provide essential facts for making analysis, evaluations, and decisions.	*To describe existing environmental elements and socio-economic conditions. *To describe current BLM management. *To determine ability of public lands to respond to the issues and concerns. *To identify management opportunities and limitations.	*To portray a mix of multiple uses and actions which could resolve the issues and address concerns. *To identify full range of options. *To provide different answers to the planning questions	*To describe potential impacts and changes that would occur with each alternative. *To identify ways to avoid or mitigate the adverse impacts.	*To identify which alternative best resolves the issues. *To clearly explain the course of the action BLM proposes to take. *To provide the opportunity for public review and comment.	*To select the proposed RMP and approve it consider ing public review and comment. *To document the decision.	*To track implementation of action plan decisions. *To help keep the RMP current *To determine if implementation is successful in meeting RMP objectives. *To assess whether the RMP continues to reflect the best resource management decisions.
PRODUCTS	*A "contract" or Preplanning Analysis that includes project support requirements, public participation plan, schedules, team make-up, budget and training needs.	*A Federal Register Notice. *Media announcements. *Letters to mailing list	*A clear statement of a manageable number of significant issues for internal tracking, review, and inclusion in the RMP	*A complete list for use by interdisciplinary team during process. *A summary for public review (usually with the issues in newsletter or other form) and inclusion in RMP	*A collection of data in various forms from all sources: old planning documents, digital data, new inventory results, resource program data and other source material.	*This may be a shelf document or part of the RMP; usually 3 parts are included. *Resource Area Profile or the Affected Environment Chapter. *Existing Management Situation or "No Action" alternative. *Capability Analysis as building blocks for other alternatives.	*Descriptions of several comprehensive resource management alternatives, each of which could be a complete plan. *Together with the "No Action" alternative (see phase 4), this makes up the alternatives Chapter of the RMP.	*The Environmental Consequences Chapter of the RMP	*The description of the Preferred Alternative and the rationale for its selection. *The Draft RMP/ Draft EIS	*The Proposed RMP/Final EIS. Record of public comment, Governor's review, protests and responses. *The Approved RMP and Record of Decision.	*A monitoring plan that describes the standards, methods and intervals for monitoring and evaluating the RMP. *The documented results of monitoring including the data and analysis leading to any decision to modify the RMP through plan maintenance, amendment, or preparation of a new plan.

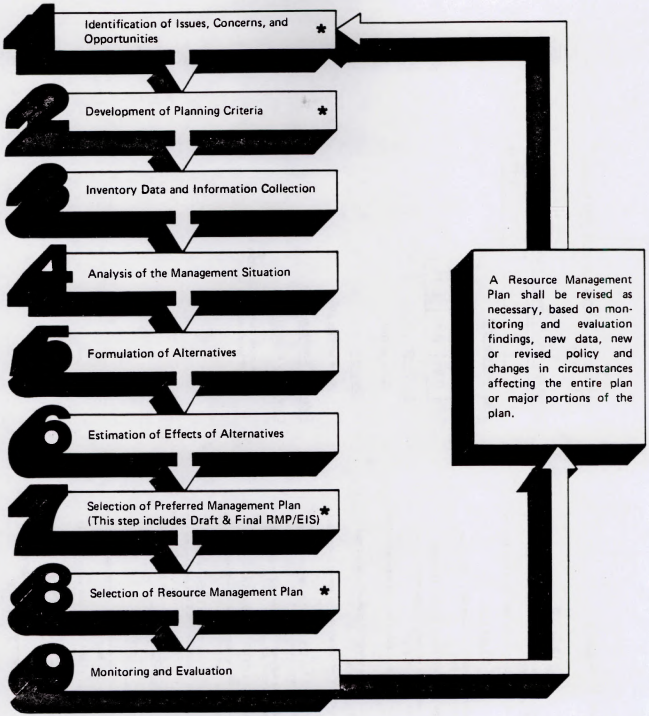

1 Identification of Issues, Concerns, and Opportunities *
2 Development of Planning Criteria *
3 Inventory Data and Information Collection
4 Analysis of the Management Situation
5 Formulation of Alternatives
6 Estimation of Effects of Alternatives
7 Selection of Preferred Management Plan (This step includes Draft & Final RMP/EIS) *
8 Selection of Resource Management Plan *
9 Monitoring and Evaluation
A Resource Management Plan shall be revised as necessary, based on monitoring and evaluation findings, new data, new or revised policy and changes in circumstances affecting the entire plan or major portions of the plan.
* Public Participation Opportunities

Figure 1
PLANNING PROCESS

MINIMUM TIME FRAMES FOR PUBLIC PARTICIPATION ACTIVITIES

I. Regulation Provisions

A - 15 DAYS

1. Any notice inviting the public to attend a public participation activity (43 CFR 1610.2(e)).
2. Notice of a hearing on potential coal leasing (43 CFR 1610.2(k)).

B - 30 DAYS

1. Any notice requesting written comments, unless otherwise stipulated (43 CFR 1610.2(e)).
2. Annual Schedule and Status Report (43 CFR 1610.2(b)).
3. Notice at the outset of the planning process (NOI) (43 CFR 1610.2(c) and 43 CFR 1610.3-1(d)).
4. Notice of the availability of proposed planning criteria (43 CFR 1610.4-2).
5. Period for surface owners to express preference when coal is involved (43 CFR 1610.2(f)).
6. Period BLM record of a public participation activity is open (43 CFR 1610.2(d)).
7. Notice (EPA) of filing of final EIS on RMP or category 2 plan amendment (43 CFR 1610.5-1(b)).*
8. Notice of effective date for plan amendment not requiring an EIS (43 CFR 1610.5-2(a)(1) and .5-5(a)).
9. Period for filing a protest (43 CFR 1610.5-2(a)(1)).
10. Period Governor of State may appeal unresolved inconsistencies to the Director (43 CFR 1610.3-2(a)).
11. Notice of any significant change made to a proposed plan or amendment as a result of protest (1610.5-1(b)) or Governor's review for consistancy (43 CFR 1610.3-2(a)). NOTE: The Director must publish in the Federal Register the results of any consistancy issue appealed by the Governor of a State.

C - 60 DAYS

1. Period for Governor's review of proposed plan or plan amendment for inconsistencies (43 CFR 1610.3-2(a)).
2. Notice of potential ACEC in draft plan or plan amendment (43 CFR 1610.7-2(b)).*

D - 90 DAYS

1. Notice (EPA) of filing of draft EIS or RMP or category 2 plan amendment (43 CFR 1610.2(a) and .5-5(b)).*

* Notice must be published in the Federal Register.

II. Minimum Requirements (by type of Plan)

Resource Management Plan

B-3*	B-4	D-1*	B-7*	B-11

Plan Amendment

Category 1

B-3*	B-8	B-11

Category 2

Same as RMP

Category 3

Same as Category 1

Planning Analysis or Land Use Analysis

If EA level, same as Category 1
IF EIS level, same as RMP

Allotment Management Plans

Allotment Management Plans (AMPs) are documents which prescribe the manner in and extent to which livestock grazing is conducted and managed to meet multiple use, sustained yield, economic, and other needs and objectives. The level of an AMP may vary from a simple documentation of existing management to a complex plan for grazing management and range improvement, depending on resource conditions and the objectives for management. As a minimum, the AMPs must contain information on resource management objectives, descriptions of grazing practices, range improvements (as needed to implement the grazing practices), flexibility, monitoring, and evaluation. It may also include a brief discussion on specific arrangements for consultation and coordination with the permittee or lessee and other interests.

As required by Section 8 of the Public Rangelands Improvement Act (PRIA) of 1978, AMPs are prepared or revised in careful and considered consultation, coordination, and cooperation with the affected permittees or lessees; the State (if there are State owned lands in the allotment); other landowners who may be affected; and other affected interests. Grazing Advisory Boards must be given an opportunity to provide advice and recommendations concerning the development of AMPs.

New AMPs can be approved and implemented after an EIS has been prepared for the livestock grazing program for the area. If the actions to be included in an AMP (including supporting range improvements) have not been analyzed in an EIS, an environmental assessment must be prepared.

The AMPs are incorporated into grazing permits and/or leases. The methods of incorporating the AMPs are as follows:

1. Any new grazing permits or leases incorporating AMPs contain the normal operation in terms of the kind and numbers of livestock, periods of use, and animal unit months (AUMs) grazed during the grazing fee year. Other terms and conditions of the AMP are incorporated into the permit or lease by reference in a stipulation.

2. If grazing permits or leases have been issued prior to preparation of AMPs, the authorized officer incorporates the terms and conditions of the completed AMPs into the grazing permits or leases through agreement.

3. If the permittee or lessee refuses to accept a new permit or lease containing the terms and conditions of an AMP, the authorized officer issues a decision incorporating a grazing management system(s) in the permit or lease to be offered. The decision must be issued in accordance with the procedures set forth in 43 CFR 4160.

AMPs are considered implemented when they have been incorporated into the permit or lease through acceptance by the permittee or lessee of an offered permit or lease containing the terms and

conditions of the AMP. However, AMPs may not always be fully operational until the supporting improvements and the grazing system have been initiated. Interim terms and conditions required to prevent resource damage and minimize conflicts until AMPs are fully operational may be incorporated into permits and leases.

The AMPs must be reviewed periodically to determine their effectiveness in improving or maintaining resource conditions in the allotment. The AMPs are revised when evaluations indicate that the grazing management actions are not accomplishing AMP objectives or when the revision would correct operational deficiencies.

Protests & Appeals

The evolution of the BLM and the Department of the Interior (DOI) protest and appeal procedures dates from the creation of the DOI, with transfer of functions from the Department of the Treasury, in 1849. In general, protests are taken to the next higher authority in line management, whereas appeals are taken to a quasi-judicial branch of the Department such as the Interior Board of Land Appeals (IBLA).

In fact, in virtually every major action proposed by the BLM, there is an eventual appeal right to IBLA before it can be fully implemented. The practical effect of a protest or an appeal is that it can delay a specific action that has been proposed until such time as a final decision is rendered. Final administrative decisions can be pursued in the courts.

GRAZING APPEALS

The process for grazing appeals is:

- A proposed decision is sent to the applicant, permittee or lessee, and other interested parties by the District Manager. The proposed decision contains a 15-day protest period.

- If protests are received, they are analyzed and a final BLM decision is issued by the District or Area Manager.

- Persons adversely affected by the District or Area Manager's decision may appeal to an administrative law judge.

- The State Director may move for dismissal of an appeal. The appellant has 20 days to respond to such action by the State Director.

- If the appeal is not dismissed, the appellant and other interested parties are provided 30 days advance notice of the hearing time and place.

- The administrative law judge issues a decision, after holding a hearing, on findings of fact and issues of law.

- There is a 30-day appeal period to IBLA for adversely affected parties, including the United States.

PLANNING PROTESTS

Protests

- A RMP is developed by the District Manager and approved by the State Director.

- Any person who participated in the planning process, or whose interest may be adversely affected by plan approval, may protest the plan approval to the Director within 30 days from the date the Environmental Protection Agency (EPA) publishes a Federal Register notice of the filing of a final environmental impact statement (EIS). Plan amendments may be protested to the Director within 30 days from publication of a notice of effective date, if an EIS is not required.

- The decision of the Director is the final decision of the Department.

Appeals

- RMPs are to be as consistent as possible with State and local Government plans. The Governor of a State may make consistency recommendations to the BLM State Director.

- Should the BLM State Director not accept a Governor's consistency recommendations, the Governor may appeal to the Director within 30 days from the State Director's Decision.

- The Director's Decision is the final decision of the Department.

- After final approval of a plan, specific actions to implement portions of the plan may be taken. Persons holding valid existing rights that could be adversely affected by such implementation may appeal the action at the time the action is proposed for implementation on legal ground to IBLA but may not appeal elements of the approved plan.

Range Management Files

All range management files are considered public information. They are available for review by the permittee or lessee as well as any member of the public.

A. Allotment/Management Unit Files

Allotment files contain allotment-specific information such as activity plans, range improvement information, historical and background information, study information, field visit reports, photographs, and evaluation documents, that is not normally included in grazing operator case files. The word management unit also refers to other management plans such as HMPs, CRMPs, etc. There are various sections in these files with the following information:

1. Allotment Information. This section contains information dealing with allotment management, objectives and goals as specified in the Land Use Plan and Range Program Summary, and other background information including the following: activity plans, allotment maps, historical information, environmental assessments, monitoring plans, and range improvement projects.

2. Supervision. This section contains information regarding supervision of the allotment such as allotment inspection reports, allotment visit records, etc.

3. Studies (Section 3 - 5). This section includes study-related information relevant to the management and accomplishment of allotment objectives including the following: actual use, utilization, trend, photographic (study related) climate, and supplemental (useful or necessary for allotment evaluation).

4. Evaluation. This section includes the annual allotment assessment, the allotment monitoring evaluation, a summary of allotment condition and trend studies, management recommendations, any summary information needed to support the recommendations that resulted from the monitoring evaluation, and how this information is interpreted in meeting the goals and objectives for the allotment.

B. Grazing Case Files

An individual case file is established to maintain the records for each grazing permit and lease. These files are compiled over the years and are the most important grazing administration records. They contain all original documents upon which the permittee's or lessee's grazing preference is based. Copies of other administrative records (e.g., appeals, unauthorized use, rangeland improvements, etc.) may be filed here; however, separate files shall be established for the originals. Certain documents are protected by the Privacy Act or other security restrictions.

1. All documents and other material are filed in chronological order in six-way folders.

a. Permits/Leases Compartment/ Section 1). Grazing permits or leases;

decisions that affect the terms and conditions of the permit or lease; CMAs; exchange-of-use grazing agreements; free-use grazing permits; and copies of allotment maps, allotment descriptions, rangeline agreements, AMPs, and related correspondence.

b. Billings (Compartment/Section 2). Applications, grazing bills, crossing permits, and related decisions and correspondence.

c. Preference History (Compartment/Section 3). Preference history, grazing preference summary, transfers, decisions affecting the preference, supplemental information, notice of authorized representative, mortgage/lienholder documents, and related correspondence.

d. Unauthorized Use (Compartment/Section 4). Copies of correspondence explaining disposition of unauthorized grazing use cases (originals are filed in the Unauthorized Grazing Use Case File) or summaries or unauthorized use actions, decisions, and related correspondence.

e. Improvements (Compartment/Section 5). A listing of range improvements and/or cooperative agreements, range improvement permits, assignment of range improvements, and related correspondence.

f. General Correspondence (Compartment/Section 6). Correspondence in chronological order with most current documents on top (e..g, letters, conversations (including phone conversations), and transcripts of recorded conversations or observations)).

C. Hearings and Appeals Case Files

These files contain the appeal; authorized officer's final decision; proposed decision; protest (if any); evidence of service or attempt at service; cross-reference to related operator case file; and copies of each pertinent application, permit, lease, or notice of unauthorized use from which the final decision was made. Record copies of appeal case files are maintained by the District of origin. Copies in the State Office or other Bureau Offices are considered reference copies.

D. Unauthorized Grazing Use Case Files

These files contain initial report, livestock count, unauthorized use report, field notes and other evidential documents, testimony documentation, unauthorized use notice, proof of service, notice of intent to impound unauthorized livestock, offer of settlement, acceptance of offer, billing notice, case closure letter or memorandum, proposed and final decision, cross-reference to related operator case file, and related papers.

Monitoring Rangeland Grazing

U S DEPARTMENT OF THE INTERIOR • BUREAU OF LAND MANAGEMENT

WHAT IS MONITORING?

For range management, monitoring means observing and recording grazing use and natural events that occur on the range, and what happens to range vegetation as a result of these actions. Changes in vegetation are compared to range management objectives to see if management practices are working as expected.

WHY MONITOR?

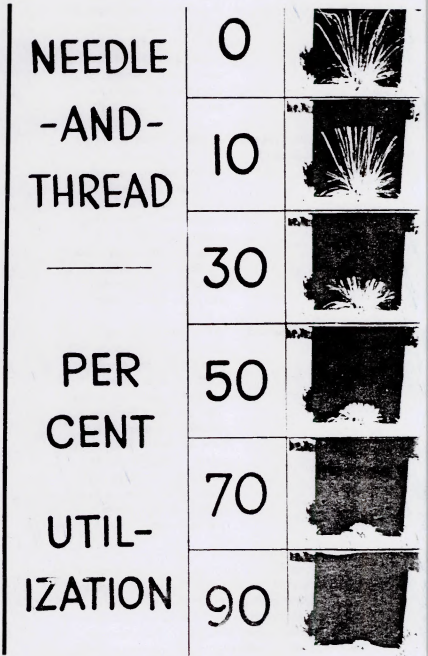
Good grazing management uses recorded observations to improve the following year's grazing practices. Where public land is involved, good records can be used to show that public rangeland management objectives are being achieved.

WHO SHOULD MONITOR?

Anyone who owns, manages, or is interested in grazing land and livestock can benefit from monitoring. Public rangeland monitoring should be a joint venture between the public and the Bureau of Land Management.

GETTING STARTED

Where public land is involved, BLM managers and the livestock operator should cooperatively develop objectives and monitoring methods. The first and most important step is to set realistic objectives. Is the objective to maintain the vegetation that is there now, to increase total vegetation production, or to increase the production of one particular plant species within the total vegetation community? The objectives should be based upon BLM land use and allotment management plans (AMP), and livestock production goals. Once the objectives are developed, monitoring observations will tell if progress is being made or if the objectives were unrealistic.



Grass utilization can be judged by estimating how much of the current year's plant growth has been consumed. Proper utilization levels should be based upon management objectives.

THE MONITORING PROCESS

The kinds of information needed to measure progress in meeting range management objectives may vary from area to area. However, basic information is needed to make sound decisions about any grazed area. This basic information includes short-term or annual events and their immediate effects on vegetation, and longer term vegetation trends.

Short-Term Monitoring. A record of what took place on the entire allotment during the grazing year includes the following items:

1. Actual Use Record — How many animals grazed in each pasture of the allotment? What kind or class (cattle, sheep, horses; mother cows, steers, yearlings, etc.)? Exact turn out and gather dates by kind and class?

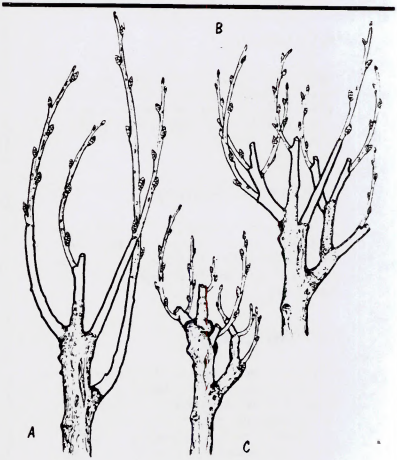
2. Utilization (Grazing Use Record) — A map or sketch of where and how intensively the allotment or pasture was grazed. Show places that were not grazed enough and those too heavily grazed. Include normal grazing areas for big game and wild horses or burros. Estimate the degree of utilization by a percentage and show it on the map.

3. Weather Record — When did storms occur? How much rain or snow fell? Was the coverage general or spotty? If spotty, note pastures or areas that got the moisture. Were there other weather-related events such as a late spring, frost, or dry winds? A general statement of growing conditions may prove useful. Was it a good, average, or poor forage production year?

Long-Term Monitoring. This involves measuring or documenting changes occurring in *important resource characteristics* of the allotment. This record is tied to a few selected locations on the allotment where permanent photo points and/or transects can be used to document change over time (trend). These trend studies should be selected to show progress towards the objectives in the AMP or grazing plan. Photo points and transects might be established to document such trends as increases or decreases in certain important forage species or undesirable plant species (e.g., perennial grasses or halogeton on an important livestock use area, or bitterbrush on an important winter range.)

1. Trend Photo Points — This photo record may be taken yearly or at longer but regular intervals. Photographs should include a general view of the trend, point, and location, and a closeup of the important resource characteristic being monitored. They should be taken at the same time of year each time.

2. Trend Transects — The photographic record should be supplemented by periodic (3–5 year intervals) sampling or measuring of the resource characteristic being monitored.

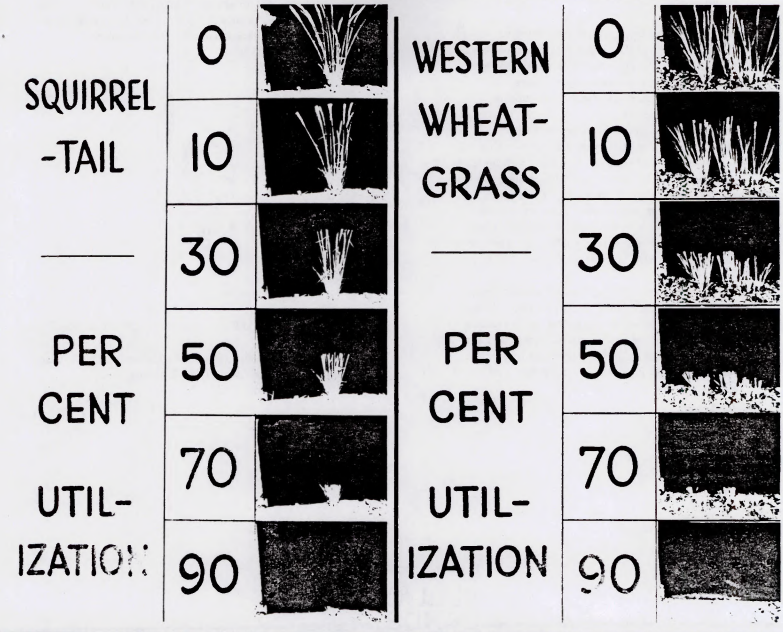


A. Zero to light, B. Moderate, C. Severe

DEGREES OF HEDGING

Browse utilization can be assessed by estimating how much of the current year's leader growth has been taken and how much a shrub is hedged.

These photo guides to utilization levels developed by Dr. Ervin Schmutz of the University of Arizona is an example of the aids available for use in estimating grazing intensity on grasses for the grazing use record.



Using Monitoring Information

Two types of interpretations are needed. The first type is interpreting information from the annual monitoring effort (annual allotment assessment) to make decisions about how grazing will be done the next season. Decisions should be made jointly as to how any grazing problem that occurred during the current year can be corrected or avoided next year.

The second type of interpretation is the periodic (3–5 year) review of documented long-term changes (trend) and the determination of cause for these changes. The second interpretation requires a review of the annual record (events) to define or explain why the documented changes occurred.

These interpretations of cause and effect make possible an objective evaluation of whether the AMP or grazing plan works or needs revision, or whether the original allotment objectives were realistic and practically attainable.

GETTING THE JOB DONE

The entire process of range monitoring should be simple and straightforward. The field work should include enough time to jointly inspect the allotment, make and record the observations, and discuss range events of that season.

It is particularly important that the grazing use record (utilization map) of the allotment be developed jointly. This should be done during an annual allotment ride or tour at the end of the grazing season to ensure good range management decisionmaking.

On public land, monitoring done by the livestock operator and the agency range manager working side-by-side is the ideal situation. However, sometimes they can obtain or collect certain information more readily if they work independently. For example, livestock numbers and turn-out dates are normal management needs to the livestock operator, while vegetation trends and normal wildlife use areas are needed by the BLM land manager.

The BLM manager and the livestock operator may develop a monitoring plan for an allotment where individuals contribute that information easily available to them, collect certain information jointly, and analyze that information jointly. Continuity is essential. Any information provided by a permittee can be used to supplement agency information.

SOURCES OF ASSISTANCE

Information and assistance are usually available through local offices of the Bureau of Land Management, Cooperative Extension Service, Soil Conservation Service, and Forest Service. These offices also may be able to provide training opportunities through workshops or field demonstrations. Interagency committees in several States have developed good monitoring guides.

Acknowledgments

Dr. Wayne Burkhardt, University of Nevada, Reno, Nevada
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Bureau of Land Management

PUBLIC LANDS ☆USA☆

USE ☆ SHARE ☆ APPRECIATE

BLM-AA-PT-04-4400

Riparian Management

The BLM is continuing to increase its emphasis on riparian area management. In line with this increased emphasis, the BLM in Wyoming is directing its program to define, identify, and manage, under the concept of multiple use, those areas that fall into the riparian area classification.

Riparian areas are unique and among the most productive ecosystems on the public lands. These wetland areas display a greater diversity of wildlife species and vegetation structure than adjoining ecosystems. Riparian areas are not only important for grazing, wildlife, and recreation, but are necessary to the well-being of watershed resources.

The following Wyoming BLM policy statement supplements bureauwide policy and establishes a definition for riparian areas, a riparian management goal, and policy directives to guide riparian management on public lands in Wyoming.

Definition

The term "riparian area," or wetlands, refers to those lands that are dependent upon surface or ground water to support a prevalence of aquatic life or vegetation requiring saturated or seasonally saturated soil conditions for growth and reproduction. These wetland areas include stream zones, ponds, reservoirs, lakes, springs, seeps, swamps, marshes, bogs, sloughs, potholes, wet meadows, and canals.

Goal

The goal of riparian management is to maintain, rehabilitate, or improve riparian ecosystems to achieve maximum long-term benefits.

Statements of Policy

1. Each District shall define riparian responsibilities for their respective jurisdictions. A District interdisciplinary team shall be established to provide consistent riparian guidance and to evaluate management effectiveness.

2. Each District shall address riparian management objectives in land use and activity plans to ensure that all uses are evaluated for their effect on riparian areas. These plans shall describe existing riparian physical data or other riparian site information, identify riparian data needs, establish a schedule for obtaining needed information, identify priorities for any riparian areas needing improvement, and schedule action(s) necessary to improve those areas.

3. Each District shall inventory and determine the condition of riparian areas under their jurisdiction, then classify each area in accordance with the National Wetlands Classification System (Cowardin, et al., 1979).

4. The Wyoming State Office shall develop monitoring and best management practice directives to guide riparian management. Appropriate use will be made of the wetlands classification system and existing technology and procedures in

developing these directives.

5. Each District shall establish riparian demonstration areas to illustrate effectiveness of various land management practices.

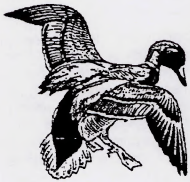
6. The Wyoming State Office shall sponsor periodic workshops to facilitate the exchange of riparian management information, address management actions and experiences in riparian areas, and discuss procedures for resolving riparian management issues.

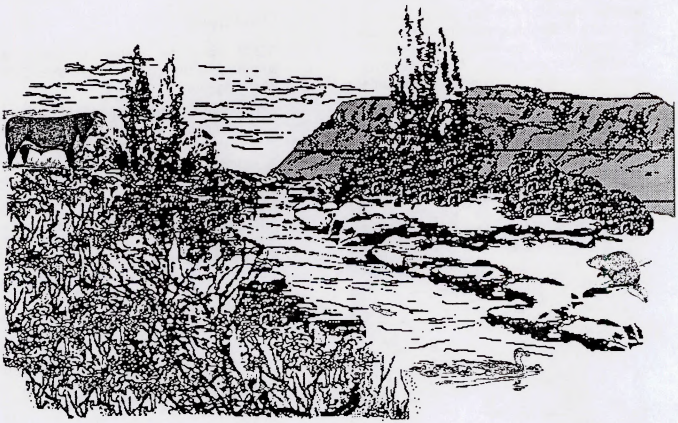
For the past three years, BLM has been working cooperatively with the Wyoming Game and Fish Department and the U.S. Fish and Wildlife Service to develop maps of all wetlands in the State. These base maps will be available to all agencies and the public. In the future, the maps will be refined as each wetland is visited on the ground and classified by vegetation type or potential. BLM and WYG&F have initiated discussions on the most efficient way to digitize the base maps and future data for use on computers.

United States Department of the Interior
Bureau of Land Management

Wyoming State Office November 1989

Wyoming Riparian Management Activity Guide Summary

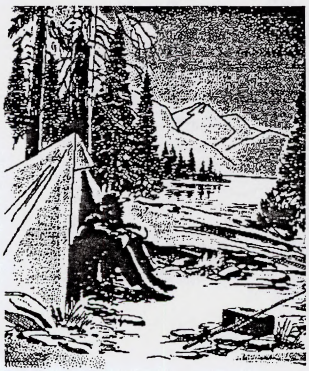




The Bureau of Land Management (BLM) in Wyoming places a high priority on the proper management of riparian habitats. This summary is a synopsis of where we are and where we are headed in managing BLM's riparian habitats in Wyoming.

Riparian management is not a funded program within the BLM. It is an initiative—a management concept which courses through all resource specialties and is funded within individual resource programs. Nevertheless, with continued strong national emphasis on riparian management, BLM's efforts in Wyoming have increased backing and active encouragement from Washington.

BLM has approximately 11,561 miles of riparian stream habitat and 159,584 acres of riparian habitat associated with marshes, lakes, ponds, etc., in Wyoming. While this riparian acreage accounts for just less than 1 percent of the BLM lands in Wyoming, in many ways, it is the most valuable of the public lands. Besides the obvious values for vegetation production and as fish and wildlife habitats, riparian areas are an important factor influencing longer periods of streamflow, improved water quality, reduced erosion of bottom lands, improved aesthetics, and increased recreational opportunities.



In May 1987, the BLM initiated the "Wyoming Riparian Strategy." The stated purpose of the strategy was "... to establish a framework for guiding management of riparian areas on public lands in Wyoming." Part of the strategy was to prepare a State Director's Riparian Policy. That document was finalized in December 1987 and continues to guide BLM's riparian management program in Wyoming. The goal of the riparian management effort, as stated in the policy, "... is to maintain, rehabilitate and improve riparian ecosystems to achieve maximum long-term benefits."

Both the Strategy and the Policy recognize the fact that riparian objectives in management and activity plans are the base upon which riparian management is going to move forward. Resource management plans are broad in scope. Activity plans, which are the focus of this guide, are detailed plans with specific objectives, management techniques, projects, and monitoring identified in the plan.

Objectives

BLM's statewide riparian objectives, as summarized in Fish and Wildlife 2000, Wyoming, are:

1. Identify and evaluate important riparian/ wetland areas under management and other areas with identified conflicting uses through continuous habitat monitoring to maintain up-to-date inventory data;
2. Maintain and, where necessary, restore riparian areas via an interdisciplinary activity plan approach, implementing riparian management, protection, and restoration efforts so that at least 75 percent of riparian areas are in good or better ecological condition by 1997.

The statewide goal and objectives are carried through to on-the-ground activity plans. It is these plans which form the backbone of riparian management in BLM. To date, 201 activity plans with specific riparian objectives, specific projects, and estimated costs have been written.

Implementation of proposed management on BLM riparian acreage in Wyoming is projected to cost approximately 8.7 million dollars through 1994.

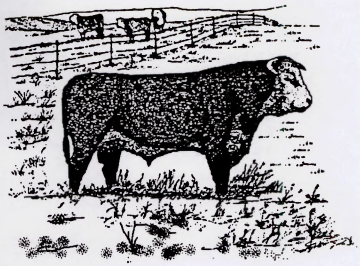
Plans and Planning

An interdisciplinary systems approach must be used in planning riparian management. Activity plan developers must consider cause and effect relationships, soils, geologic and vegetative potentials, land use management, and project maintenance.

Activity plans may be signed cooperatively with leasees, public/private organizations or other agencies, individually or together. During activity plan development, an effort must be made to solicit the participation and cooperative support of all interested parties. In many cases, this includes other land owners, both up and down stream. Planning for the management of a riparian area should not be isolated from managment of the entire watershed. Regardless of the type of plan, each one goes through a BLM multi-disciplinary evaluation to assure consistent multiple resource management planning. Implementation of these plans may include management techniques involving livestock grazing, forestry, or wildlife management.

The "Draft Technical Reference on Grazing Management in Riparian Areas" printed by BLM's Service Center (SC) discusses a variety of livestock management techniques which can be used in activity plans. Techniques which have been used in established plans in Wyoming include:

low intensity,
short duration,
seasonal use,
sheep use or cattle use only,
herding,
trailing only,
rest rotation,
deferred rotation,
utilization limits,
riparian pastures,
exclosures,
and combinations of these.



Livestock can be a very effective tool in vegetation management; this includes riparian management. Most BLM riparian lands are an important part of livestock grazing allotments. The wise use of livestock can actually enhance riparian management in many ways such as seed trampling, increasing plant vigor, selective vegetative control, etc. Proper riparian management can complement the use of upland vegetation by livestock. Furthermore, the condition of the upland watershed will influence the condition of associated riparian areas. This is all tied to well planned and managed activity plans.

Herd management plans, prepared cooperatively with the Wyoming Game and Fish Department, focus on wildlife impacts on the land; riparian concerns are becoming an important part of those plans. Intensive beaver management has been a useful tool in riparian management in Wyoming since the late 1970's. Wyoming BLM biologists have successfully pioneered the reintroduction of beavers into severely degraded drainages to help reestablish riparian habitats.

Development and Maintenance

Various types of projects aimed at achieving riparian objectives are integral parts of activity plans throughout Wyoming. Projects include:

Livestock water developments
Vegetation manipulations
Instream structures
Wetlands development
Fences
Roads
Signing

Monitoring

Monitoring of objectives is a necessary and important part of any activity plan. That is why measurable, quantitative objectives are also an important part of every plan. Where activity plan objectives are not well defined, Resource Area and District riparian teams must reevaluate individual objectives and should recommend activity plan revisions where necessary.

Monitoring techniques can be as site-specific as objectives. A manual of monitoring techniques which are commonly used in riparian habitats is being prepared. Field offices will continue to have the flexibility to choose the monitoring method applicable to the individual activity plan.

Benefits

The numerous benefits of proper riparian management have been documented in a multitude of scientific publications during the last few years. Benefits resulting from various riparian improvement projects throughout the West have included:

improved water quality,
increased sediment storage,
increased life of downstream reservoirs,
extended annual streamflow periods,
raised water tables,
increased livestock and wildlife forage,
improved fish and wildlife habitats,
increased recreational opportunities,
and enhanced aesthetics.

Each of these benefits came from a specific plan, project or site. With the continued implementation of activity plans with riparian objectives and with continued management support of those plans, these same benefits will accrue to the BLM riparian lands throughout Wyoming.

Where are we?

Wyoming BLM is moving forward in its riparian management program. As of mid-1989, activity plans accounted for 2,246 miles of streams and 44,872 acres of wetlands, marshes, etc., under management with specific riparian objectives. There are still 87 activity plans to be developed or revised which are projected to require riparian objectives.

The State of Wyoming, Department of Environmental Quality, is working on a comprehensive set of Best Management Practices (BMP) for Wyoming in compliance with the federal Clean Water Act. BLM personnel have worked on committees and reviewed drafts of the BMP document. The standard and still excellent guide for riparian managemnt techniques is the 1982 Western Division of the American Fisheries Society's publication "The Best Management Practices for the Management and Protection of Western Riparian Stream Ecosystems."

Actions

1. Continue with on-the-ground development, implementation, and monitoring of activity plans with sound riparian objectives;
2. Review existing riparian objectives to insure that they are quantifiable and attainable;
3. Prepare a Summary Flyer of the Wyoming Riparian Management Actitivty Guide for widespread public distribution;
4. Continue participation and coordination with all interest groups;
5. Monitor this plan in FY 1991 through an official statewide riparian initiative procedures review to be conducted in June 1991.

*GPO 1989 773-868

Access

PUBLIC ACCESS

Public land access is a sensitive issue. Recreationists are concerned about getting to the public lands. Private landowners are concerned about the potential erosion of property rights and adverse impacts on private property and leased public lands.

In order to respond to these concerns, a draft Access Management Policy Statement was prepared and released for public review and comment in December, 1989. A revised draft, based on the public's comments, was prepared and released for additional public review on April 26, 1990.

The BLM currently administers approximately 17.9 million acres in Wyoming. Public access to 14.2 million acres, or 79 percent, of those lands is available by some means (foot, horseback, boat, or vehicle). About 11 million acres, or 61 percent, is accessible by four-wheel drive vehicle. This includes the legally accessible public lands within 1 mile of an existing road or vehicle trail.

From a practical standpoint, public access is usually available by public roads and trails or with permission of the landowner where public roads are not available. Public roads are roads under the jurisdiction of a public land management agency, the State Highway Department, or county and municipal Governments.

DRAFT ACCESS MANAGEMENT POLICY

The major goals of BLM's access management program are to maintain existing access and meet future access needs. All access management actions will be in conformance with an approved land use plan. The major elements of the program include acquisition when needed, appropriate restrictions to protect both public and private resources, and public information and education efforts such as distribution of maps and brochures, "Operation Respect," and increased signing of public land boundaries and roads.

The preferred methods of developing access include obtaining easements through purchase at fair market value, land exchanges, or cooperative agreements.

The major factors that will be considered in determining acquisition priorities include the amount of land accessed, resource values, public demand, and BLM investments. Generally, the BLM strives to obtain public access to the larger blocks of land. It would be impractical to obtain access to every parcel of public land.

Livestock Trailing

During the past few months, the Bureau of Land Management in Wyoming has received a number of inquiries about trailing livestock on public land. It seems some people are concerned that BLM has changed the policy on trailing and is getting restrictive in dealing with trail use.

So let's review the facts.

First, we can say our regulations and policies on trailing livestock on the public lands have not changed in years.

We recognize the demand and necessity for trailing livestock across the public land. In 1989, we responded by issuing 488 crossing permits along with 28,492 animal unit months of grazing use.

All livestock grazing on public land, and that includes trailing, has to be authorized by the BLM. However, we can issue trailing or crossing permits to anyone who has to trail livestock across public land for one reason or another.

Crossing permits have to be obtained before the trailing begins. We can issue a permit each time a trailing need on the public land arises. We can also write one permit for all the trailing use someone needs for the entire grazing fee year. We can combine trailing use with other grazing authorizations on the permittee's or lessee's grazing bill. The choice is up to their permittee or lessee.

Expense can be a factor in deciding how to chose permit methods. We have to assess a service charge on crossing permits in addition to the grazing fee. So there is a $10 service charge. If the trailing use is combined with other grazing use, there is no service charge.

We can change crossing permits after they are issued. If, for example, the trailing dates change because of the weather or forage conditions, a person can request a change by phone, letter, or in person. No service charge will be levied if there is no change in the grazing fee part of the permit.

The grazing fees on crossing permits are set by figuring the amount of public land forage consumed in AUMs by the livestock. The rate per AUM is at the same as normal public land grazing.

Crossing permits may contain terms and conditions. These are usually things we have agreed to, such as a particular route to be followed, distance the livestock will travel per day, number of days trailing, or stopover areas.

One of the more frequent questions asked is, "Do I need a crossing permit to trail across the public lands in my allotment?" The answer is no, if the livestock are on license during the trailing period.

BLM crossing permits are only good for trailing on BLM land. If the trailing route crosses private land, or public land handled by another agency, separate arrangements will have to be made.

Unauthorized Grazing Use

Unauthorized grazing use is a prohibited act under the grazing regulation and includes allowing livestock onto or driving livestock across public lands and other lands under BLM administration without permits or leases, or in violation of the terms and conditions of permits or leases. Unauthorized grazing use is usually one of three types: grazing or trailing in unauthorized areas, grazing or trailing during unauthorized periods, and grazing or trailing unauthorized livestock. The authorized officer is responsible for detecting unauthorized use and determining the extent of the damages.

Whenever it appears that a violation exists and the owner of the unauthorized livestock is known, written notice of unauthorized use and order to remove livestock by a specified date shall be served upon the alleged violator or the agent of record, or both by certified mail or personal delivery. The written notice shall also allow a specified time from receipt of notice for the alleged violator to show that there has been no violation or to make settlement. When neither the owner of the unauthorized livestock nor his agent is known, the authorized officer may proceed to impound the livestock.

The authorized officer shall determine whether the violation is nonwillful, willful, or repeated willful. Where violations are repeated willful, the authorized officer shall take action under
43 CFR 4170.1-1(b). The amount due for all settlements shall include the value of forage consumed as determined by paragraphs (a), (b), and (c). Settlement for willful and repeated willful violations shall also include the full value for all damages to the public lands and other property of the United States; and all reasonable expenses incurred by the United States in detecting, investigating, resolving violations, and livestock impoundment costs.

(a) For nonwillful violation: The value of forage consumed as determined by the average monthly rate per AUM for pasturing livestock on privately owned land (excluding irrigated land) for the 11 Western States as published annually by the Department of Agriculture (currently $8.70).

(b) For willful violations: Twice the value of forage consumed as determined in paragraph (a).

(c) For repeated willful violations: Three times the value of the forage consumed as determined in paragraph (a).

Violators shall not be authorized to make grazing use of the public lands administered by the BLM until any amount found to be due the United States under this section has been paid. The authorized officer may take action to cancel or suspend grazing authorizations or to deny approval of applications for grazing use until such amounts have been paid. The proposed decision shall include a demand for payment.

Unauthorized livestock remaining on the public lands or other lands under BLM control after the date set forth in the notice and order to remove may be impounded and disposed of by the authorized officer with the following notices:

(a) A written notice of intent to impound shall be sent by certified mail or personally delivered to the owner or his agent, or both. The written notice shall indicate that unauthorized livestock on the specified public lands or other lands under BLM control, or both, may be impounded any time after 5 days from delivery of the notice. Where the owner and his agent are unknown, or where both a known owner and his agent refuses to accept delivery, a notice of intent to impound shall be published in a local newspaper and posted at the country courthouse and a post office near the public land involved.

Following the impoundment of livestock, the livestock may be disposed of by the authorized officer under these regulations or, if a suitable agreement is in effect, they may be turned over to the State for disposal. Any known owners or agents, or both, shall be notified in writing by certified mail or by personal delivery of the sale and the procedure by which the impounded livestock may be redeemed prior to the sale.

If the livestock are not redeemed on or before the date and time fixed for their sale, they shall be offered at public sale to the highest bidder or, if a suitable agreement is in effect, by the State. If a satisfactory bid is not received, the livestock may be reoffered for sale, condemned and destroyed, or otherwise disposed of.

Other Programs

MINERALS

There are currently 52 federal sodium (trona) leases in Wyoming, 12 of which are producing. The FY89 production of trona was 16 million tons producing royalties of over $8,000,000. Wyoming is the principle producer of trona in the nation.

During 1989 there were 89 federal coal leases in force and 32 of them were producing. Coal production on federal leases totaled an estimated 152 million tons producing royalties of $94,372,000. Coal production amounted to over 70 percent of all federal coal production in the country and almost 15 percent of the nation's total.

During 1989, eight mineral patents for bentonite covering 4,247.64 acres were issued. BLM in Wyoming has 238,687 active and closed unpatented mining claims on record. During the year 1,382 new claims were recorded and 7,558 old claims were closed. Most of the new claims recorded were for gold and bentonite and the old claims closed were for uranium. There are 57,971 active claims on record for all mineral commodities.

Common varieties of sand, stone, gravel, scoria, pumice, cinders and clay earned $188,662 in 40 sales, largely to commercial contractors and included some 1,676,992 cubic yards of mineral materials.

These minerals are also available under free use permits to the state of Wyoming, counties, and non-profit groups for road construction and other uses. During the year, 2,207,595 cubic yards of material valued at $397,020, were made available under the free use system.

Some minerals sales are made for exclusive use of a particular site. Other materials are sold from a common use area or community pit open to the public. During the year there were 66 community pit and common use area sales of 39,255 yards of material providing $26,881.

Despite the continuing depressed market in the oil and gas industry Wyoming remains one of the top federal oil and gas producers in the west. There are some 29,459 federal leases that cover about 19,285,662 acres in the state. During calendar year 1988 (latest information available) these leases and associated units produced 66,120,236 barrels of oil and 480,407,346 cubic feet of gas bringing $197,269,174 in rents and royalties, half of which went directly to the state of Wyoming.

Competitive oral bid lease sales were held bimonthly in Wyoming during FY89. Some 4,531 parcels were offered in these sales. A total of 1,346 competitive oil and gas leases encompassing 1,086,373 acres were issued with bonus bids amounting to $16,945,347. The highest per acre bid for a single parcel was $6,500.

Unsold parcels from the competitive sales are available for noncompetitive leasing for two years. During FY89, a total of 9,982 offers on these leases were filed resulting in the issuance of 1,539 leases on 1,719,320 acres.

Royalties from Federal Leases 1982-1988, Wyoming

Year	Federal Oil Royalty Collected	Federal Gas Royalty Collected	Federal Coal Royalty Collected	Other Minerals Royalty Collected	Total Royalty Collected	State's Share
1982	$240,821,908	$ 82,863,457	$21,331,355	$ 6,381,288	$351,398,008	$175,699,004
1983	243,146,403	100,510,848	21,024,109	19,809,762	384,491,122	192,245,561
1984	244,129,907	120,544,028	23,449,891	13,018,753	401,142,579	200,571,290
1985	231,917,178	95,900,785	27,705,941	16,018,171	371,542,075	185,771,038
1986	124,021,213	71,874,321	28,486,778	13,029,094	237,411,406	118,705,703
1987	136,076,684	59,067,090	60,894,526	8,781,833	264,820,133	132,410,067
1988	108,357,983	56,927,484	91,858,561	12,098,334	269,242,362	134,621,181
1989*						

*NOTE: 1989 data will not be available until September of 1990.

Although oil prices stabilized during the fiscal year, oil and gas activity decreased slightly from the previous year. BLM in Wyoming recorded 347 new hole starts in FY89, compared to 495 a year earlier, resulting in 191 oil and gas well completions compared to 308 in FY88. The rig count in Wyoming has increased from 32 at the end of FY88 to 52 at the end of FY89.

FISH AND WILDLIFE 2000

The BLM (Wyoming) State level "Fish and Wildlife 2000" administrative strategy is the second tier in a hierarchical series of wildlife program directional documents. The national level Fish and Wildlife 2000 - Strategic Plan" (first tier) was completed in mid-1987, and the District level plans (third tier) in Wyoming were initially formulated in 1988. This State level strategy is basically a consolidation and expansion of the District level plans. The BLM (Wyoming) "Fish and Wildlife 2000" strategy was developed to guide the administrative and infrastructural aspects of the fish and wildlife habitat resource program on BLM administered public lands in Wyoming through the year 2000. The strategy will also serve as a communication tool to the public users and cooperators of what we expect to accomplish over all in the next 10-12 years.

The mission of the BLM wildlife program is capsulized as:

"Ensure optimum populations and a natural abundance and diversity of wildlife resources on public lands by restoring, maintaining, and enhancing habitat conditions through management plans and actions integrated with other uses of public lands through coordination with other resource programs, the States, by resource management initiatives, and through direct habitat improvement projects."

BLM in Wyoming manages roughly 18 million acres of public land surface and nearly 12 million additional acres of Federal minerals in 4 Districts and 11 Resource Areas. Public lands are found in four different physiographic regions, mostly in the western two-thirds of the State. The sagebrush-grasslands and saltbush-desert of the mountain foothills and high elevations plateaus, respectively, are the most prevalent habitat types found on the public lands in the State; highly valued riparian types can also be found on the public lands. Several "blue-ribbon" trout fisheries also occur in the State, partially on public lands.

The BLM (Wyoming) wildlife program is currently "guided" by over 50 different major guidelines or species plans and 12 different Bureau land use plans. In addition, the wildlife program is currently implementing 32 habitat management plans (HMPs) covering 6.3 million acres and 1,687 miles of stream (mostly on public lands). For the State as a whole, these HMPs are estimated to be 47 percent implemented. There are also 21 existing wildlife cooperative management agreements (CMAs) and several wildlife "areas of critical environmental concern" (ACECs).

Forecasts of wildlife resource public use and interest trends show a proportionate increase in nonconsumptive wildlife resource uses into the next century. For the period of 1988-2000, nearly $27 million of wildlife program "needs" are identified and an additional $7 million of wildlife program support to other BLM resource programs is noted.

WILDERNESS

Congress passed the Wilderness Act in 1964. This Act names three Federal agencies; the National Park Service, the Forest Service, and the Fish and Wildlife Service, to inventory their lands and recommend to Congress those areas that should be preserved for present and future generations.

The Bureau of Land Management was not included as an agency to administer wilderness due to the peculiar foundation of the BLM at the time. However, there were those who recognized that the BLM had blocks of land that were just as spectacular and wild as those of other agencies. A movement was started among concerned citizens and politicians to establish a firm legislative base for the BLM. This movement came to fruition in the passage of the Federal Land Policy and Management Act (FLPMA) on October 21, 1976. This Act directed the BLM to conduct an inventory of the lands it administered and to recommend areas for inclusion in the National Wilderness System.

The Act also identified 55 areas of BLM land to be speeded up in the process. These were called "Instant Study Areas."

Only one, Scab Creek Primitive Area near Pinedale, is located in Wyoming.

The BLM in Wyoming began the task of inventorying the lands in the fall of 1978. Some 40 wilderness study areas, totaling about 575,000 acres, were identified for further study. The study of these areas in Wyoming is nearing completion.

Eight draft environmental impact statements have been prepared and were made available to the public for review and comment. Using the comments from the reviews, and based on further input by the Department of the Interior, final EISs are being prepared and filed with the EPA. At this point, June 1990, only four more documents remain to be filed. Completion is scheduled for this fall.

Each of the EISs analyze the effect of wilderness designation on resource values such as timber; grazing; oil and gas production; and other mineral, recreation, and wilderness values. They also identify the Bureau's position on whether the individual study area should or should not be recommended for wilderness designation by Congress.

While there is still the possibility for some changes in our recommendations, it appears that all, or part, of 17 study areas will be recommended for designation as wilderness by Congress. The remaining 23 areas, plus the nonsuitable portion of some of the 17 areas, are being recommended for release by Congress from interim management. Our final report and recommendations will be submitted to the Secretary this fall for approval. At the time of approval, it will be made available to the public and submitted through the President to Congress.

Congress has directed that we complete our wilderness studies by 1991. The final decision, on which BLM areas will be designated as wilderness, will be made by Congress based on input from the public as well as the recommendations from the President. Until Congress acts to designate or release these WSAs, BLM must manage them under interim management to ensure their wilderness values are not impaired.

DEPARTMENT OF THE INTERIOR
Bureau of Land Management
[Circular No 2604]
43 CFR Parts 4100

Grazing Administration, Exclusive of Alaska

Under the authority of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315(a)—(r), Section 4 of the Act of August 28, 1937 (43 U.S.C. 1181(d)) and the Federal Land Policy and Management Act of 1976, as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1701 et seq.), Part 4100, Subchapter D and Part 9260, Subchapter I, Chapter II of Title 43 of the Code of Federal Regulations are amended as set forth below.

Note.—The information collection requirements contained in 43 CFR Part 4100 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers: 1004—0005; 1004—0016; 1004—0019; 1004—0020; 1004—0041; 1004—0047; 1004—0048; 1004—0049; 1004—0051; and 1004—0068. The information is being collected to allow the authorized officer to determine if an application to utilize the public lands for grazing purposes should or should not be granted. This information will be utilized in making this determination. The obligation to respond is required to obtain a benefit.

PART 4100-GRAZING ADMINISTRATION-EXCLUSIVE OF ALASKA

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Subpart 4100—Grazing Administration-Exclusive of Alaska; General

§ 4100-1 Purpose.

The purpose is to provide uniform guidance for administration of grazing on the public lands exclusive of Alaska.

§ 4100.0-2 Objectives.

The objectives of these regulations are orderly use, improvement and development of the public lands, enhancement of their productivity by prevention of overgrazing and soil deterioration, stabilization of the livestock industry dependent upon the public range, provide for inventory and categorization of public rangelands on the basis of range conditions and trends, consistent with land-use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR Subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.)

§ 4100.0-3 Authority.

(a) The Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r);

(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);

(c) Executive Orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act;

(d) Section 4 of the O&C Act of August 28, 1937 (43 U.S.C. 118(d));

(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C 1901 et seq.); and

(f) Public Land Orders, Executive Orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified;

(g) The Department of the Interior Appropriations Act for Fiscal Year 1985 (Pub. L. 98-473, 98 Stat. 1837).

§ 4100.0-5 Definitions.

Whenever used in this part, unless the context otherwise requires, the following definitions apply:

The "Act" means the Taylor Grazing Act of June 28, 1934, and amended (43 U.S.C. 315, 315a-315r).

"Active use" means the current authorized livestock grazing use.

"Actual use" means where, how many, what kind or class of livestock, and how long livestock graze on an allotment.

"Actual use report" means a report of the actual livestock grazing use submitted by the permittee or lessee.

"Affected interest" means an individual or organization that has expressed in writing to the authorized officer concern for the management of livestock grazing on specific grazing allotments and who has been determined by the authorized officer to be an affected interest.

"Allotment" means an area of land designated and managed for grazing of livestock.

"Allotment management plan (AMP)" means a documented program which applies to livestock grazing on the public lands, prepared in consultation, cooperation and coordination with the permittee(s), lessee(s) or other involved affected interests.

"Animal unit month (AUM)" means the amount of forage necessary for the sustenance of one cow or its equivalent for a period of 1 month.

"Authorized officer" means any person authorized by the Secretary to administer regulations in this part.

"Base property" means: (1) Land that has the capability to produce crops or forage that can be used to support authorized livestock for a specified period of the year, or (2) water that is suitable for consumption by livestock and is available and accessible to the authorized livestock when the public lands are used for livestock grazing.

"Cancelled or cancellation" means a permanent termination of a grazing permit or grazing lease and grazing preference, or free-use grazing permit or other grazing authorization, in whole or in part.

"Class of livestock" means age and/or sex groups of a kind of livestock.

"Consultation, cooperation and coordination" means an interactive process for seeking advice, agreement, or interchange of opinions on issues, plans, or management actions from other agencies and affected permittee(s) or lessee(s), landowners involved, the district grazing advisory boards where established, any State having lands within the area to be covered by an allotment management plan and other affected interests.

"Control" means being responsible for and providing care and management of base property and/or livestock.

"District" means the specific area of public lands administered by a District Manager.

"Grazing district" means the specific area within which the public lands are administered under section 3 of the Act. Public lands outside grazing district boundaries are administered under section 15 of the Act.

"Grazing fee year" means the year, used for billing purposes, which begins on March 1 of a given year and ends on the last day of February of the following year.

"Grazing lease" means a document authorizing use of the public lands outside grazing districts under section 15 of the Act for the purpose of grazing livestock.

"Grazing permit" means a document authorizing use of the public lands within grazing districts under section 3 of the Act for the purpose of grazing livestock.

"Grazing preference" means the total number of animal unit months of livestock grazing on public lands apportioned and attached to base property owned or controlled by a permittee or lessee.

"Land use plan" means a resource management plan or management framework plan which is being followed until replaced by a resource management plan. These plans are developed in accordance with the provisions of the Federal Land Policy and Management Act and establishes management direction for resource uses of public lands.

"Livestock" or "kind of livestock" means species of domestic livestock—cattle, sheep, horses, burros, and goats.

"Livestock Carrying Capacity" means the maximum stocking rate possible without inducing damage to vegetation or related resources. It may vary from year to year on the same area due to fluctuating forage production.

"Monitoring" means the periodic observation and orderly collection of data to evaluate:

(1) Effects of management actions; and

(2) Effectiveness of actions in meeting management objectives.

"Public lands" means any land and interest in land outside of Alaska owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, except lands held for the benefit of Indians.

"Range improvement" means an authorized activity or program on or relating to rangelands which is designed to improve production of forage; change vegetative composition; control patterns of use; provide water; stabilize soil and water conditions; and provide habitat for livestock, wild horses and burros, and wildlife. The term includes, but is not limited to structures, treatment projects, and use of mechanical means to accomplish the desired results.

"Rangeland studies" means any study methods accepted by the authorized officer for collecting data on actual use, utilization, climatic conditions, other special events, and trend to determine if management objectives are being met.

"Secretary" means the Secretary of the Interior or his authorized officer.

"Service area" means the area that can be properly grazed by livestock watering at a certain water.

"State Director" means the State Director, Bureau of Land Management, or his or her authorized representative.

"Subleasing" means the act of a permittee or lessee entering into an agreement that either (1) allows someone other than the permittee or lessee to graze livestock on the public lands without controlling the base property supporting the permit or lease or (2) allows grazing on the public lands by livestock that are not owned or controlled by the permittee or lessee.

"Supplemental feed" means a feed which supplements the forage available from the public lands and is provided to improve livestock nutrition or rangeland management.

"Suspension" means temporarily withholding, in whole or in part, a grazing preference from active grazing use. The withholding may be done voluntarily by the permittee or lessee.

"Trend" means the direction of change over time, either toward or away from desired management objectives.

"Utilization" means the percentage of forage that has been consumed by livestock during a specified period and the livestock grazing utilization pattern on the allotment.

§ 4100.0-7 Cross-references.

The regulations in Subpart 1784 of this chapter govern advisory boards and the regulations in Part 4 of this title govern appeals and hearings.

§ 4100.0-8 Land use plans.

The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).

Subpart 4110—Qualifications and Preference

§4110.1 Mandatory qualifications.

Except as provided under §§ 4110.1-1, 4130.3 and 4130.4-3, to qualify for grazing use on the public lands an applicant must be engaged in the livestock business, must own or control land or water base property, and must be

(a) A citizen of the United States or have properly filed a valid declaration of intention to become a citizen or a valid petition for naturalization; or

(b) A group or association authorized to conduct business in the State in which the grazing use is sought, all members of which are qualified under paragraph (a) of this section; or

(c) A corporation authorized to conduct business in the State in which the grazing use is sought.

§ 4110.1-1 Acquired lands.

Where lands have been acquired by the Bureau of Land Management (BLM) through purchase, exchange, Act of Congress or Executive Order, and an agreement or the terms of the act or Executive Order provide that BLM shall honor existing grazing permits or leases, such permittees or lessees shall be considered qualified for grazing use on those acquired lands.

§ 4110.2 Grazing preference.

§ 4110.2-1 Base property.

(a) The authorized officer shall find land or water owned or controlled by an applicant to be base property (see § 4100.0-5) if:

(1) It serves as a base for a livestock operation which utilizes public lands within a grazing district, or

(2) It is contiguous land, or noncontiguous land when no applicant owns or controls contiguous land, used in conjunction with a livestock operation which utilizes public lands outside a grazing district.

(b) After appropriate consultation, cooperation, and coordination, the authorized officer shall specify the length of time for which land base property shall be capable of supporting authorized livestock during the year, relative to the multiple-use management objective of the public lands.

(c) An applicant shall provide a legal description, or plat, of his base property and shall certify to the authorized officer that this base property meets the requirements under paragraphs (a) and (b) of this section.

(d) If a permittee or lessee loses ownership or control of all or part of his/her base property, the permit or lease, to the extent it was based upon such lost property, shall terminate immediately without further notice from the authorized officer. However, if, prior to losing ownership or control of the base property, the permittee or lessee requests in writing, that the permit or lease be extended to the end of the grazing season or grazing year, the termination date may be extended as determined by the authorized officer after consultation with the new owner. When a permit or lease terminates because of a loss of ownership or control of a base property, the grazing preference shall remain with the base property and be available through application and transfer procedures at 43 CFR 4110.2-3, to the new owner or person in control of that base property.

(e) Applicants who own or control base property contiguous to or cornering upon public land outside a grazing district where such public land consists of an isolated or disconnected tract embracing 760 acres or less shall, for a period of 90 days after the tract has been offered for lease, have a preference right to lease the whole tract.

§ 4110.2-2 Specifying grazing preference.

(a) Grazing preference shall be specified in all grazing permits or grazing leases. It shall include both active use and suspended use. Active use shall be based upon the amount of forage available for livestock grazing established in the land use plan as defined in 43 CFR 1601.0-5(k).

(b) The grazing preference specified shall attach to the base property supporting the grazing permit or grazing lease.

(c) The animal unit months of grazing preference are attached to:

(1) The acreage of land base property on a pro rata basis, or

(2) Water base property on the basis of livestock forage production within the service area of the water.

§ 4110.2-3 Transfer of grazing preference.

(a) Transfers of grazing preference in whole or in part are subject to the following requirements:

(1) The transferee shall meet all necessary qualifications for a grazing preference under the regulations of this part.

(2) The transfer applications under paragraphs (b) and (c) of this section shall evidence assignment of interest and obligation in range improvements authorized on public lands under § 4120.3 and maintained in conjunction with the transferred preference (see § 4120.3-5). The terms and conditions of the cooperative agreements and range improvement permits are binding on the transferee.

(3) The transferee shall accept the terms and conditions of the terminating grazing permit or lease (see § 4130.2) with such modifications as he may request which are approved by the authorized officer or with such modifications as may be required by the authorized officer.

(4) The transferee shall file an application for a grazing permit or lease to the extent of the transferred preference simultaneously with filing a transfer application under paragraph (b) or (c) of this section.

(b) If base property is sold or leased, the transferee shall within 90 days of the date of sale or lease file with the authorized officer a properly executed transfer application showing the base property and the amount of grazing preference being transferred in animal unit months.

(c) If a grazing preference is being transferred from one base property to another base property, the transferor shall own or control the base property from which the grazing preference is being transferred and file with the authorized officer a properly completed transfer application for approval. If the applicant leases the base property, no transfer will be allowed without the written consent of the owner(s), and any person or entity holding an encumbrance of the base property from which the transfer is to be made. Such consent will not be required where the applicant for such transfer is a lessee without whose livestock operations the grazing preference would not have been established.

(d) At the date of approval of a transfer, the existing grazing permit or lease shall terminate automatically and without notice to the extent of the transfer.

(e) If an unqualified transferee acquires rights in base property through operation of law or testamentary disposition such transfer will not affect the grazing preference or any outstanding grazing permit or lease, or preclude the issuance or renewal of a grazing permit or lease based on such property for a period of 2 years after the transfer. However, such a transferee shall qualify under paragraph (a) of this section within the 2-year period or the grazing preference shall be subject to cancellation. The authorized officer may grant extensions of the 2-year period where there are delays solely attributable to probate proceedings.

(f) Failure of either the transferee or the transferor to comply with the regulations of this section may result in rejection of the transfer application or cancellation of grazing preference.

§ 4110.2-4 Allotments.

After consultation, cooperation, and coordination with permittees or lessees, the authorized officer may designate and adjust allotment boundaries.

§ 4110.3 Changes in grazing preference status.

The authorized officer shall periodically review the grazing preference specified in a grazing permit or grazing lease and may make changes in the grazing preference status. These changes shall be supported by monitoring, as evidenced by rangeland studies conducted over time, unless the change is either specified in an applicable land use plan or necessary to manage, maintain or improve rangeland productivity.

§ 4110.3-1 Increasing active use.

Additional forage may be apportioned to qualified applicants for livestock grazing use consistent with multiple-use management objectives.

(a) Additional forage temporarily available for livestock grazing use, including forage which is temporarily available within an allotment because of a change in grazing use under § 4130.1-1, may be apportioned on a nonrenewable basis.

(b) Additional forage available on a sustained yield basis for livestock grazing use shall first be apportioned in satisfaction of grazing preferences to the permittee(s) or lessee(s) authorized to graze in the allotment in which the forage is available.

(c) After consultation, cooperation and coordination, additional forage on a sustained yield basis available for livestock grazing use over and above the preference(s) of the permittee(s) or lessee(s) in an allotment may be apportioned in the following priority to:

(1) Permittee(s) or lessee(s) in proportion to the contribution or efforts which resulted in increased forage production;

(2) Permittee(s) or lessee(s) in proportion to the amount of their grazing preference; and/or

(3) Other qualified applicants under § 4130.1-2 of this title.

§ 4110.3-2 Decreasing active use.

(a) Active use may be suspended in whole or in part on a temporary basis due to drought, fire, or other natural causes, or to facilitate installation, maintenance, or modification of range improvements.

(b) When monitoring shows active use is causing an unacceptable level or pattern of utilization or exceeds the livestock carrying capacity as determined through monitoring, the authorized officer shall reduce active use if necessary to maintain or improve rangeland productivity, unless the authorized officer determines a change in management practices would achieve the management objectives.

(c) Where active use is reduced it shall be held in suspension or in nonuse for conservation/protection purposes, until the authorized officer determines that active use may resume.

§ 4110.3-3 Implementing changes in active use.

(a) Changes in active use in excess of 10 percent shall be implemented over a 5-year period, unless after consultation with the affected permittees or lessees and other affected interests, an agreement is reached to implement the increase or decrease in less than 5 years.

(b) After consultation, coordination and cooperation, suspensions of preference shall be implemented through a documented agreement or by decision. If data acceptable to the authorized officer are available, an initial reduction shall be taken on the effective date of the agreement or decision and the balance taken in the third and fifth years following the effective date, except as provided in paragraph (a) of this section. If data acceptable to the authorized officer to support an initial reduction are not available, additional data will be collected through monitoring. Adjustments based on the additional data shall be implemented by agreement or decision that will initiate the 5-year implementation period.

(c) When the authorized officer determines that the soil, vegetation, or other resources on the public lands require temporary protection because of conditions such as drought, fire, flood, or insect infestation, after consultation with affected permittees or lessees and other affected interests, action shall be taken to close allotments or portions of allotments to grazing by any kind of livestock or to modify authorized grazing use. Notices of closure and decisions requiring modification of authorized grazing use shall be issued as final decisions which are placed in full force and effect under § 4160.3(c) of this title.

§ 4110.4 Changes in public land acreage

§ 4110.4-1 Additional land acreage.

When lands outside designated allotments become available for livestock grazing under the administration of the Bureau of Land Management, the forage available for livestock shall be made available to qualified applicants at the discretion of the authorized officer. Grazing use shall be apportioned under § 4130.1-2 of this title.

§ 4110.4-2 Decrease in land acreage.

(a) Where there is a decrease in public land acreage available for livestock grazing use within an allotment, grazing permits or grazing leases and grazing preferences shall be canceled in whole or in part. The cancellations will be equitably apportioned by the authorized officer or as agreed to among authorized users and the authorized officer.

(b) When public lands are disposed of or devoted to a public purpose which precludes livestock grazing, the permittees and lessees shall be given 2 years' prior notification except in cases of emergency (national defense requirements in time of war, natural disasters, national emergency needs, etc.) before their grazing permit or grazing lease and grazing preference may be canceled. A permittee or lessee may unconditionally waive the 2-year prior notification. Such a waiver shall not prejudice the permittee's or lessee's right to reasonable compensation for, but not to exceed, the fair market value of his or her interest in authorized permanent range improvements located on these public lands (see § 4120.3-6).

§ 4110.5 Interest of Members of Congress.

Title 18 U.S.C. 431-433 (1970) generally prohibits a Member of or Delegate to Congress from entering into any contract or agreement with the United States. Title 41 U.S.C. 22 (1970) generally provides that in every contract or agreement to be made or entered into, or accepted by or on behalf of the United States, there shall be inserted an express condition that no Member of or Delegate to Congress shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon. The provisions of these laws are incorporated herein by reference and apply to all permits, leases, and agreements issued under these regulations.

Subpart 4120—Grazing Management

§ 4120.1 Reserved

§ 4120.2 Allotment management plans.

When allotment management plans are developed, the following provisions apply:

(a) An allotment management plan shall be prepared in careful and considered consultation, cooperation, and coordination with affected permittee(s) or lessee(s), landowners involved, the district grazing advisory boards where established, any State having lands within the area to be covered by such an allotment management plan, and other affected interests. The allotment management plan shall include terms and conditions under §§ 4130.6, 4130.6-1, 4130.6-2 and 4130.6-3 of this title, and shall prescribe the livestock grazing practices necessary to meet specific multiple-use management objectives. The plan shall specify the limits of flexibility within which the permittee or lessee may adjust operations without prior approval of the authorized officer. The plan shall provide for monitoring to evaluate the effectiveness of management actions in achieving the specific multiple-use management objectives of the plan.

(b) Private and State lands shall be included in allotment management plans with the consent or at the request of the parties who own or control those lands.

(c) Completed allotment management plans shall be incorporated into the terms and conditions of the affected grazing permits and leases.

§ 4120.3 Range Improvements.

§ 4120.3-1 Conditions for range improvements.

(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.

(b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative agreement with the Bureau of Land Management or must have an approved range improvement permit.

(c) The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under § 4130.6-2 of this title.

(d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with two or more permittees or lessees and/or to meet the terms and conditions of agreement.

(e) A range improvement permit or cooperative agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.

§ 4120.3-2 Cooperative agreements.

Any person may enter into a cooperative agreement with the Bureau of Land Management for the installation, use, maintenance, and/or modification of range improvements needed to achieve management objectives. The cooperative agreement shall specify the division of costs or labor, or both, between the United States and cooperator(s). Title to structural or removable improvements shall be shared by the United States and cooperator(s) in proportion to the actual amount of the respective contribution to the initial construction. Title to nonstructural or nonremovable improvements shall be in the United States.

§ 4120.3-3 Range improvement permits.

(a) Any permittee or lessee may apply for a range improvement permit to install, use, maintain, and/or modify range improvements that are needed to achieve management objectives within his/her designated allotment. The permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance. Such range improvement permits are issued at the discretion of the authorized officer.

(b) The permittee or lessee shall have title to removable range improvements authorized under range improvement permits.

(c) The use by livestock of stock ponds or wells authorized by a range improvement permit shall be controlled by the grazing permittee or lessee holding the range improvement permit.

§ 4120.3-4 Standards, design and stipulations.

Range improvement permits and cooperative agreements shall specify the standards, design, construction, and maintenance criteria for the range improvements and other additional conditions and stipulations or modifications deemed necessary by the authorized officer.

§ 4120.3-5 Assignment of range improvements.

The authorized officer shall not approve the transfer of a grazing preference under § 4110.2-3 of this title or approve use by the transferee of existing range improvements, unless the transferee has agreed to compensate the transferor for his/her interest in the authorized improvements within the allotment as of the date of the transfer.

§ 4120.3-6 Removal and compensation for loss of range improvements.

(a) Range improvements shall not be removed from the public lands without authorization.

(b) The authorized officer may require permittees or lessees to remove range improvements which they own on the public lands if these improvements are no longer helping to achieve land use plan or allotment goals and objectives or if they fail to meet the criteria under § 4120.3-4 of this title.

(c) Whenever a grazing permit or lease is cancelled in order to devote the public lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States reasonable compensation for the adjusted value of their interest in authorized permanent improvements placed or constructed by the permittee or lessee on the public lands covered by the cancelled permit or lease. The adjusted value is to be determined by the authorized officer.

Compensation shall not exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein. Where a range improvement is authorized by a range improvement permit, the livestock operator may elect to salvage materials and perform rehabilitation measures rather than be compensated for the adjusted value.

(d) Permittees or lessees shall be allowed 180 days from the date of cancellation of a range improvement permit or cooperative agreement to salvage material owned by them and perform rehabilitation measures necessitated by removal.

§ 4120.3-7 Contributions.

The authorized officer may accept contributions of labor, materials, equipment, or money for administration, protection, and improvement of the public lands necessary to achieve the objectives of this part.

§ 4120.4 Special rules.

(a) When a State Director determines that local conditions require a special rule to achieve improved administration consistent with the objectives of this part, the Director may approve such rules. The rules shall be subject to public review and comment, as appropriate, and upon approval, shall become effective when published in the Federal Register as final rules. Special rules shall be published in a local newspaper.

(b) Where the Bureau of Land Management administers the grazing use of other Federal agency lands, the terms of an appropriate Memorandum of Understanding or Cooperative Agreement shall apply.

Subpart 4130—Authorizing Grazing Use

§ 4130.1 Applications.

Applications for grazing permits or leases (active use and nonuse), free-use grazing permits and other grazing authorizations shall be filed with the authorized officer at the local Bureau of Land Management office having jurisdiction over the public lands involved.

§ 4130.1-1 Changes in grazing use.

(a) Applications for changes in grazing use should be filed with the authorized officer before the billing notices for the affected grazing use have been issued. Applications for changes in grazing use filed after the billing notices for the affected grazing use have been issued, and which require the issuance of a replacement or supplemental billing notice shall be subject to a service charge under § 4130.7-3 of this title.

(b) Changes in grazing use may be granted by the authorized officer.

§ 4130.1-2 Conflicting applications.

When more than one qualified applicant applies for livestock grazing use of the same public lands and/or where additional "forage for livestock," or additional acreage becomes available, the authorized officer may "authorize," grazing use of such land or forage on the basis of § 4110.3-1 of this title or on the basis of any of the following factors:

(a) Historic use of the public lands (see § 4130.2(d));

(b) Proper range management and use of water for livestock;

(c) General needs of the applicants' livestock operations;

(d) Public ingress or egress across privately owned or controlled land to public lands;

(e) Topography; and

(f) Other land use requirements unique to the situation.

§ 4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to authorize livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management. These grazing permits or leases shall specify terms and conditions as required by § 4130.6 of this title.

(b) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(c) Grazing permits or leases authorizing livestock grazing on the public lands and other lands under administration of the Bureau of Land Management shall be issued for a term of 10 years, unless: (i) The land is pending disposal; (ii) the land will be devoted to a public purpose which precludes grazing prior to the end of 10 years; or (iii) it will be in the best interest of sound land management to specify a shorter term.

(d) Permittees or lessees holding expiring grazing permits or leases shall be given first priority for new permits or leases if:

(1) The lands for which the permit or lease is issued remain available for domestic livestock grazing;

(2) The permittee or lessee is in compliance with the rules and regulations and the terms and conditions in the permit or lease;

(3) The permittee or lessee accepts the terms and conditions to be included by the authorized officer in the new permit or lease.

(e) Permits or leases may incorporate the percentage of public land livestock use (see § 4130.6-2) or may include private land offered under exchange-of-use grazing agreements (see § 4130.4-1).

§ 4130.3 Free-use grazing permits.

A free-use grazing permit shall be issued to any applicant whose residence is adjacent to public lands within grazing districts and who needs these public lands to support those domestic livestock owned by the applicant whose products or work are used directly and exclusively by the applicant and his family. The issuance of free-use grazing permits is subject to § 4130.1-2. These permits shall be issued on an annual basis. These permits cannot be transferred or assigned.

§ 4130.4 Other grazing authorizations.

Exchange-of-use grazing agreements, nonrenewable grazing permits or leases, crossing permits, and special grazing permits or leases have no priority for renewal and cannot be transferred or assigned.

§ 4130.4-1 Exchange-of-use grazing agreements.

(a) An exchange-of-use grazing agreement may be issued to any applicant who owns or controls lands which are unfenced and intermingled with public lands when use under such an agreement would be in harmony with the management objectives for the allotment.

(b) An exchange-of-use grazing agreement may be issued to authorize use of public lands to the extent of the livestock carrying capacity of the lands offered in exchange-of-use. No fee shall be charged for this grazing use.

§ 4130.4-2 Nonrenewable grazing permits or leases.

Nonrenewable grazing permits or leases may be issued on an annual basis to qualified applicants when forage is temporarily available, provided this use is consistent with multiple-use objectives and does not interfere with existing livestock operations on the public lands.

§ 4130.4-3 Crossing permits.

Any applicant showing the necessity for crossing the public land or other land under Bureau of Land Management control with livestock for proper and lawful purposes may be issued a crossing permit upon such terms and conditions deemed necessary by the authorized officer to achieve the objectives of this part.

§ 4130.4-4 Special grazing permits or leases.

Special grazing permits or leases authorizing grazing use by privately owned or controlled indigenous animals may be issued at the discretion of the authorized officer. This use shall be consistent with multiple-use objectives. These permits or leases shall be issued for a term deemed appropriate by the authorized officer not to exceed 10 years.

§ 4130.5 Ownership and identification of livestock.

(a) The permittee or lessee shall own or control and be responsible for the management of the livestock which graze the public land under a grazing permit or lease.

(b) Authorized users shall comply with the requirements of the State in which the public lands are located relating to branding of livestock, breed, grade and number of bulls, health and sanitation.

(c) The authorized officer may require counting and/or additional special marking or tagging of the authorized livestock in order to promote the orderly administration of the public lands.

(d) Where a permittee or lessee controls but does not own the livestock which graze the public lands, the agreement that gives the permittee or lessee control of the livestock shall be filed with the authorized officer.

(e) The brand and other identifying marks on livestock controlled, but not owned, by the permittee or lessee shall be filed with the authorized officer.

§ 4130.6 Terms and conditions.

Livestock grazing permits and leases shall contain terms and conditions necessary to achieve the management objectives for the public lands and other lands under Bureau of Land Management administration.

§ 4130.6-1 Mandatory terms and conditions.

(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity as determined through monitoring and adjusted as necessary under §§ 4110.3, 4110.3-1 and 4110.3-2.

(b) All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.

§ 4130.6-2 Other terms and conditions.

The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

(a) The class of livestock that will graze on an allotment;

(b) The breed of livestock in allotments within which two or more permittees or lessees are authorized to graze;

(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;

(d) A requirement that permittees or lessees operating under a grazing permit or lease submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made;

(e) The kinds of indigenous animals authorized to graze under specific terms and conditions;

(f) Provision for livestock grazing to be temporarily delayed, discontinued or modified to allow for the reproduction, establishment or restoration of vigor of plants, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth; and

(g) The percentage of public land use determined by the proportion of livestock forage available on public lands within the allotment compared to the total amount available from both public lands and those owned or controlled by the permittee or lessee.

§ 4130.6-3 Modification.

Following careful and considered consultation, cooperation and coordination with the lessees, permittees, and other affected interests, the authorized officer may modify terms and conditions of the permit or lease if monitoring data show that present grazing use is not meeting the land use plan or management objectives.

§ 4130.7 Fees.

§ 4130.7-1 Payment of fees.

(a) Grazing fees shall be established annually by the Secretary.

(1) Except as provided in paragraphs (a)(2) and (a)(3) of this section, the calculated fee or grazing fee shall be equal to the $1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index (computed annually from data supplied by the National Agricultural Statistics Service) added to the Combined Index (Beef Cattle Price Index minus the Prices Paid Index) and divided by 100; as follows:

$$CF = \$1.23 \times \frac{FVI + BCPI - PPI}{100}$$

CF = Calculated Fee (grazing fee) is the estimated economic value of livestock grazing, defined by the Congress as fair market value (FMV) of the forage;

$1.23 = The base economic value of grazing on public rangeland established by the 1966 Western Livestock Grazing Survey;

FVI = "Forage Value Index" means the weighted average estimate of the annual rental charge per head per month for pasturing cattle on private rangelands in the 11 Western States (Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, and California) (computed by the National Agricultural Statistics Service from the June Enumerative Survey) divided by $3.65 and multiplied by 100;

BCPI = "Beef Cattle Price Index" means the weighted average annual selling price for beef cattle (excluding calves) in the 11 Western States (Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, and California) for November through October (computed by the National Agricultural Statistics Service) divided by $22.04 per hundred weight and multiplied by 100; and

PPI = "Prices Paid Index" means the following selected components from the National Agricultural Statistics Service's Annual National Index of Prices Paid by Farmers for Goods and Services adjusted by the weights indicated in parentheses to reflect livestock production costs in the Western States: 1. Fuels and Energy (14.5); 2. Farm and Motor Supplies (12.0); 3. Autos and Trucks (4.5); 4. Tractors and Self-Propelled Machinery (4.5); 5. Other Machinery (12.0); 6. Building and Fencing Materials (14.5); 7. Interest (6.0); 8. Farm Wage Rates (14.0); 9. Farm Services (18.0).

(2) Any annual increase or decrease in the grazing fee for any given year shall be limited to not more than plus or minus 25 percent of the previous year's fee.

(3) The grazing fee for any year shall not be less than $1.35 per animal unit month.

(b) Fees shall be charged for livestock grazing upon or crossing the public lands and other lands

administered by the Bureau of Land Management at a specified rate per animal unit month.

(c) The full fee shall be charged for each paying animal unit which is defined as each animal six (6) months of age or over at the time of entering the public lands, for all weaned animals regardless of age, and for such animals as will become twelve (12) months of age during the authorized period of use. No charge will be made for animals under six (6) months of age at the time of entering the public lands that are the natural progeny of animals upon which fees are paid, provided they will not become twelve (12) months of age during the authorized period of use or for progeny born during that period.

(d) Fees are due on the due date specified on the grazing fee bill. Payment will be made prior to grazing use. If allotment management plans provide for billing after the grazing season, fees will be based on actual grazing use and will be due upon issuance.

(e) Failure to pay the grazing bill within 15 days of the due date specified in the bill shall result in a late fee assessment of $25.00 or 10 percent of the grazing bill, whichever is greater, but not to exceed $250.00. Payment made later than 15 days after the due date, shall include the appropriate late fee assessment. Failure to make payment within 30 days may be a violation of § 4140.1(b)(1) and shall result in action by the authorized officer under §§ 4150.1 and 4160.1-2.

§ 4130.7-2 Refunds.

(a) Grazing fees may be refunded where applications for change in grazing use and related refund are filed prior to the period of use for which the refund is requested.

(b) No refunds shall be made for failure to make grazing use, except during periods of range depletion due to drought, fire, or other natural causes, or in case of a general spread of disease among the livestock that occurs during the term of a permit or lease. During these periods of range depletion the authorized officer may credit or refund fees in whole or in part or postpone fee payment for as long as the emergency exists.

§ 4130.7-3 Service charge.

A service charge shall be assessed for each crossing permit, transfer of grazing preference and each replacement or supplemental billing notice except for actions initiated by the authorized officer. Pursuant to section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a)), calculation of the Bureau service charge assessed shall reflect processing costs and shall be adjusted periodically as costs change. Notice of changes shall be published periodically in the Federal Register.

§ 4130.8 Pledge of permits or leases as security for loans.

Grazing permits or leases that have been pledged as security for loans from lending agencies shall be renewed by the authorized officer under the provisions of these regulations for a period of not to exceed 10 years if the loan is for the purpose of furthering the permittee's or lessee's livestock operation, Provided, That the permittee or lessee has complied with the rules and regulations of this part and that such renewal will be in accordance with other applicable laws and regulations. While grazing permits or leases may be pledged as security for loans from lending agencies, this does not exempt these permits or leases from the provisions of these regulations.

Subpart 4140—Prohibited Acts

§ 4140.1 Acts prohibited on public lands.

The following acts are prohibited on public lands and other land administered by the Bureau of Land Management:

(a) Persons performing the following prohibited acts may be subject to civil penalties under § 4170.1:

(1) Violating special terms and conditions incorporated in permits or leases;

(2) Failing to make substantial grazing use as authorized for 2 consecutive fee years;

(3) Placing supplemental feed on these lands without authorization;

(4) Failing to comply with the terms, conditions, and stipulations of range improvement cooperative agreements or range improvement permits;

(5) Refusing to install, maintain, modify or remove range improvements when so directed by the authorized officer.

(6) Subleasing as defined in this subpart.

(b) Persons performing the following prohibited acts may be subject to civil and criminal penalties under §§ 4170.1 and 4170.2:

(1) Allowing livestock or other privately owned or controlled animals to graze on or be driven across these lands;

(i) Without a permit, lease or other grazing use authorization;

(ii) In violation of the terms and conditions of a permit, lease or other grazing use authorization including, but not limited to, livestock in excess of the number authorized;

(iii) In an area or at a time different from that authorized; or

(iv) Failing to comply with a requirement under § 4130.5(c) of this title.

(2) Installing, using, maintaining, modifying, and/or removing range improvements without authorization;

(3) Cutting, burning, spraying, destroying, or removing vegetation without authorization;

(4) Damaging or removing United States property without authorization;

(5) Molesting livestock authorized to graze on these lands;

(6) Littering;

(7) Interfering with lawful uses or users;

(8) Knowingly or willfully making a false statement or representation in base property certifications, grazing applications, range improvement permit applications, cooperative agreements, actual use reports, and/or amendments thereto;

(9) Violating State livestock requirements relating to branding of livestock: breed, grade, and number of bulls; and health and sanitation requirements;

(10) Violating the Bald Eagle Protection Act or the Endangered Species Act.

Subpart 4150—Unauthorized Grazing Use

§ 4150.1 Violations.

Violation of § 4140.1(b)(1) constitutes unauthorized grazing use.

Violators shall be liable in damages to the United States for the forage consumed by their livestock, for injury to Federal property caused by their unauthorized grazing use, and for expenses incurred in impoundment and disposal of their livestock and may be subject to civil penalties or criminal sanction for such unlawful acts.

§ 4150.2 Notice and order to remove.

(a) Whenever it appears that a violation exists and the owner of the unauthorized livestock is known, written notice of unauthorized use and order to remove livestock by a specified date shall be served upon the alleged violator or the agent of record, or both by certified mail or personal delivery. The written notice shall also allow a specified time from receipt of notice for the alleged violator to show that there has been no violation or to make settlement under § 4150.3.

(b) When neither the owner of the unauthorized livestock nor his agent is known, the authorized officer may proceed to impound the livestock under § 4150.4.

§ 4150.3 Settlement.

The authorized officer shall determine whether the violation is nonwillful, willful, or repeated willful. Where violations are repeated willful, the authorized officer shall take action under § 4170.1-1(b) of this title. The amount due for all settlements shall include the value of forage consumed as determined by paragraphs (a), (b), or (c) of this section. Settlement for willful and repeated willful violations shall also include the full value for all damages to the public lands and other property of the United States; and all reasonable expenses incurred by the United States in detecting, investigating, resolving violations, and livestock impoundment costs.

(a) For nonwillful violation: The value of forage consumed as determined by the average monthly rate per AUM for pasturing livestock on privately owned land (excluding irrigated land) for the 11 Western States as published annually by the Department of Agriculture.

(b) For willful violations: Twice the value of forage consumed as determined in paragraph (a) of this section.

(c) For repeated willful violations: Three times the value of the forage consumed as determined in paragraph (a) of this section; and

(d) Payment made under this section does not relieve the alleged violator of any criminal liability under Federal or State law.

(e) Violators shall not be authorized to make grazing use of the public lands administered by the Bureau of Land Management until any amount found to be due the United States under this section has been paid. The authorized officer

may take action under § 4160.1-2 of this title to cancel or suspend grazing authorizations or to deny approval of applications for grazing use until such amounts have been paid. The proposed decision shall include a demand for payment.

§ 4150.4 Impoundment and disposal.

Unauthorized livestock remaining on the public lands or other lands under Bureau of Land Management control, or both, after the date set forth in the notice and order to remove sent under § 4150.2 may be impounded and disposed of by the authorized officer as provided herein.

§ 4150.4-1 Notice of intent to impound.

(a) A written notice of intent to impound shall be sent by certified mail or personally delivered to the owner or his agent, or both. The written notice shall indicate that unauthorized livestock on the specified public lands or other lands under Bureau of Land Management control, or both, may be impounded any time after 5 days from delivery of the notice.

(b) Where the owner and his agent are unknown, or where both a known owner and his agent refuses to accept delivery, a notice of intent to impound shall be published in a local newspaper and posted at the county courthouse and a post office near the public land involved. The notice shall indicate that unauthorized livestock on the specified public lands or other lands under Bureau of Land Management control, or both, may be impounded any time after 5 days from publishing and posting the notice.

§ 4150.4-2 Impoundment.

After 5 days from delivery of the notice under § 4150.4-1(a) of this title or any time after 5 days from publishing and posting the notice under § 4150.4-1(b) of this title, unauthorized livestock may be impounded without further notice any time within the 12-month period following the effective date of the notice.

§ 4150.4-3 Notice of public sale.

Following the impoundment of livestock under this subpart the livestock may be disposed of by the authorized officer under these regulations or, if a suitable agreement is in effect, they may be turned over to the State for disposal. Any known owners or agents, or both, shall be notified in writing by certified mail or by personal delivery of the sale and the procedure by which the impounded livestock may be redeemed prior to the sale.

§ 4150.4-4 Redemption.

Any owner or his agent, or both, or lien-holder of record of the impounded livestock may redeem them under these regulations or, if a suitable agreement is in effect, in accordance with State law, prior to the time of sale upon settlement with the United States under § 4150.3 or adequate showing that there has been no violation.

§ 4150.4-5 Sale.

If the livestock are not redeemed on or before the date and time fixed for their sale, they shall be offered at public sale to the highest bidder by the authorized officer under these regulations or, if a suitable agreement is in effect, by the State. If a satisfactory bid is not received, the livestock may be reoffered for sale, condemned and destroyed, or otherwise disposed of under these regulations or, if a suitable agreement is in effect, in accordance with State law.

Subpart 4160—Administrative Remedies

§ 4160.1 Proposed decisions.

§ 4160.1-1 Proposed decisions on permits or leases.

In the absence of a documented agreement between the authorized officer and the permittee(s) or lessee(s), the authorized officer shall serve a proposed decision on any applicant, permittee or lessee, or the agent of record, or both who is affected by the proposed action on applications for permits (including range improvement permits) or leases, or by the proposed action relating to terms and conditions of permits (including range improvement permits) or leases, by certified mail or personal delivery. The authorized officer shall also send copies to other affected interests. The proposed decision shall state reasons for the action, including reference to pertinent terms, conditions and/or provisions of these regulations, and shall provide for a period of 15 days after receipt for the filing of a protest.

§ 4160.1-2 Proposed decisions on alleged violations.

If the authorized officer determines that a permittee or lessee appears to have violated any provision of this part he shall serve a proposed decision on the permittee or lessee, or his agent, or both, by certified mail, or personal delivery of the proposed decision. The proposed decision shall state the alleged violation and refer to the specific terms, conditions, and/or provisions of these regulations alleged to have been violated and the reasons for the proposed decision. As applicable, the proposed decision shall state the amount due under § 4130.7-1 or § 4150.3 and the action to be taken under § 4170.1. The proposed decision shall provide for a period of 15 days after receipt for the filing of a protest.

§ 4160.2 Protests.

Any applicant, permittee, lessee or other affected interests may protest the proposed decision under § 4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision.

§ 4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision shall become the final decision of the authorized officer without further notice.

(b) Upon the timely filing of a protest, the authorized officer shall reconsider his proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to his review of the protest, the authorized officer shall serve his final decision on the protestant or his agent, or both, and on other affected interests.

(c) A period of 30 days after receipt of the final decision is provided for filing an appeal. Decisions that are appealed shall be suspended pending final action except as otherwise provided in this section. Except where grazing use the preceding year was authorized on a temporary basis under § 4110.3-1(a) of this title, an applicant who was granted grazing use in the preceding year may continue at that level of authorized active use pending final action on the appeal. The authorized officer may place the final decision in full force and effect in an emergency to stop resource deterioration. Full force and effect decisions shall take effect on the date specified, regardless of an appeal.

§ 4160.4 Appeals.

Any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge under § 4.470 of this title by filing his notice of appeal in the office of the authorized officer within 30 days after the receipt of the decision.

Subpart 4170—Penalties

§ 4170.1 Civil penalties.

§ 4170.1-1 Penalty for violations.

(a) The authorized officer may withhold issuance of a grazing permit or lease, or suspend the grazing use authorized under a grazing permit or lease, in whole or in part, or cancel a grazing permit or lease and grazing preference, or a free use grazing permit or other grazing authorization, in whole or in part, under Subpart 4160 of this title, for violation by a permittee or lessee of any of the provisions of this part.

(b) The authorized officer shall suspend the grazing use authorized under a grazing permit, in whole or in part, or shall cancel a grazing permit or lease and grazing preference, in whole or in part, under Subpart 4160 of this title for repeated willful violation by a permittee or lessee of § 4140.1(b)(1) of this title.

(c) Whenever a nonpermittee or nonlessee violates § 4140.1(b) of this title and has not made satisfactory settlement under § 4150.3 of this title, the authorized officer shall refer the matter to proper authorities for appropriate legal action by the United States against the violator.

(d) Any person who is found to have violated the provisions of § 4140.1(a)(6) since October 12, 1984, shall be required to pay to the authorized officer the dollar equivalent value, as determined by the authorized officer, of all compensation received for the sublease which is in excess of the sum of the established grazing fee and the cost incurred by that person for the installation and maintenance of authorized range improvements. If the dollar equivalent value is not received by the authorized officer within 30 days of receipt of the final decision, the grazing permit or lease shall be cancelled. Such payment shall be in addition to any other penalties the authorized officer may impose under paragraph (a) of this section.

§ 4170.1-2 Failure to use.

After consultation, coordination, and cooperation, the authorized officer may cancel a grazing preference to the extent of failure to use when a permittee or lessee has failed to make substantial grazing use as authorized for 2 consecutive years. (See § 4140.1(a)(2).)

§ 4170.1-3 Bald Eagle Protection Act and Endangered Species Act.

Violation of the Bald Eagle Protection Act or the Endangered Species Act may result in penalty under § 4170.1-1 where:

(a) Public land administered by the Bureau of Land Management is involved or affected;

(b) Such violation is related to grazing use authorized by permit or lease;

(c) The permittee or lessee has been convicted or otherwise found to be in violation of the law or regulations by a court or by final determination of any agency charged with the administration of the law where no further appeals are outstanding.

§ 4170.2 Penal provisions.

§ 41702-1 Penal provisions under the Taylor-Grazing Act.

Under section 2 of the Act any person who willfully violates the provisions of § 4140.1(b) or of approved special rules and regulations is punishable by a fine of not more than $500.

§ 4170.2-2 Penal provisions under the Federal Land Policy and Management Act.

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), any person who knowingly and willfully violates the provisions of § 4140.1(b) or of approved special rules and regulations may be brought before a designated U.S. magistrate and is punishable by a fine of not more than $1,000 or imprisonment for no more than 12 months or both.